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# Executive Orders

## EXECUTIVE ORDER JBE 19-03

### Suspension of Early Voting

WHEREAS, La. R.S. 18:401.1 provides a procedure whereby the emergency suspension or delay and rescheduling of qualifying, early voting and elections can occur when there is a possibility of an emergency or common disaster occurring before or during a regularly scheduled or special election “in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person’s exposure to danger during declared states of emergency, and to protect the integrity of the electoral process...”;

WHEREAS, early voting for the May 14, 2019 proposition elections is scheduled to be conducted on April 20, 2019 through April 27, 2019 from 8:30 a.m. until 6:00 p.m. in the Parish of Allen; and

WHEREAS, on April 25, 2019, state offices in Allen Parish were closed due to power outages associated with extreme weather and, pursuant to the provisions of La. R.S. 18:401.1(B), the Secretary of State has certified and recommended that early voting be suspended on Thursday, April 25, 2019 starting at 12:00 noon at 105 North 5th Street, Oberlin, Louisiana 70655 and be resumed at 8:30 a.m. on Friday, April 26, 2019 at 105 North 5th Street, Oberlin, Louisiana 70655.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Under the authority of La. R.S. 18:401.1(8) and based on the April 25, 2019 certification and recommendation from the Secretary of State that a state of emergency exists, early voting is suspended on Thursday, April 25, 2019 starting at 12:00 noon at 105 North 5th Street, Oberlin, Louisiana 70655 and early voting shall be resumed at 8:30 a.m. on Friday, April 26, 2019 at 105 North 5th Street, Oberlin, Louisiana 70655.

SECTION 2: This order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 25th day of April, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1905#053

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Certification of Commercial Applicators (LAC 7:XXIII.711)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulation requiring proficiency testing for all commercial applicators in 2018 and 2019. R.S. 3:3203(A) provides that the “commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides...” Additionally, R.S. 3:3242 provides that the “commissioner by rule shall provide for the issuance of annual certification cards.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9.

This Emergency Rule shall become effective upon signature, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticides

#### Chapter 7. Examinations, Certification and Licensing

##### Subchapter B. Certification

##### §711. Certification of Commercial Applicators

A. - F. ...

1. In order to renew a certification card, a commercial applicator shall take and pass a commercial applicator proficiency test. All commercial applicators who have not passed the commercial applicator proficiency test on or by December 31, 2017, shall take and pass the commercial applicator proficiency test before their renewal application and/or recertification will be processed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006),

repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:2126 (December 2018), LR 45:

Mike Strain DVM,  
Commissioner

1905#002

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Structural Pest Control (LAC 7:XXV.113 and 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Commissioner of Agriculture and Forestry and Louisiana Structural Pest Control Commission declare an emergency to exist and hereby adopt by emergency process the attached regulation requiring proficiency testing for all structural licensees and registered technicians. R.S. 3:3366 grants the Structural Pest Control Commission the authority to adopt rules and regulations “to protect the interests, health, safety, and welfare of the public.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9-10.

This Emergency Rule shall become effective upon signature, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

##### §113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - P.3. ...

4. All registered technicians must take and pass the registered technician examination and/or the structural pesticide proficiency test in order to maintain his or her status as a registered technician. Any registered technician who has taken and passed the registered technician examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her status as a registered technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April

1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016); LR 45:

#### **§117. Obligations of the Licensee/Permittee**

A. - E.1.d. ...

e. All structural licensees must take and pass the structural licensee examination and/or the structural pesticide proficiency test in order to maintain his or her commercial application certification. Any structural licensee who has taken and passed the structural licensee examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her commercial application certification.

E.3. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 44:1236 (July 2018), LR 45:

Mike Strain DVM,  
Commissioner

1905#001

### **DECLARATION OF EMERGENCY**

#### **Department of Agriculture and Forestry Office of the Commissioner**

Medical Marijuana Program  
(LAC 7:XLIX.101, 501, 525, 701, 907, 1101,  
1505, 1701, 1711, 2501, 2901, and 2903)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 40:1046, the Commissioner of Agriculture and Forestry declares an emergency to exist and amends by emergency process the attached regulations for the handling, testing analyzing medical marijuana or product in its laboratory.

To define and clarify terms essential to LAC 7:XLIX and the Medical Marijuana Program, these emergency provisions include additional definition of terms. These amendments further provide for regulations regarding the wearing of identification badges while working near plants and/or during processing; how to pay fees; make electronically stored media and card access records available to department; inspector responsibility; who is permitted in restricted area; surveillance shall be in operation 24 hours 7

days a week; camera shall magnify at entrance and exits; security system shall be provided to department via secured web-based portal; transportation manifest and labeling and packaging approved by department.

This Emergency Rule becomes effective upon the signature of the commissioner, April 26, 2019, and shall remain in effect for 120 days, unless renewed or until permanent rules and regulations become effective.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XLIX. Medical Marijuana**

#### **Chapter 1. General Provisions**

#### **§101. Definitions**

A. - B. ...

\*\*\*

*Immature Plant*—a nonflowering Medical Marijuana plant that is no taller than eight to ten inches produced from a cutting, clipping or seedling.

*Inspector*—LDAF employee designated by the department to carry out an inspection under this Title.

\*\*\*

*Processing*—any method used to prepare marijuana or its by products for commercial use, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

\*\*\*

*Research Facility*—Louisiana State University Agriculture Center Research Facility and Southern University Agriculture Center Research Facility.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1251 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

#### **Chapter 5. License and Permits**

#### **§501. Procedure for Issuing the License**

A. ...

B. R.S. 40:1046 entitles the Louisiana State University Agricultural Center and the Southern University Agricultural Center to the right of first refusal to be licensed as the production facility. This entitlement carries a presumption of suitability and accordingly, the following Sections of this Chapter pertaining to licensing shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center: §§505, 507, 509, 513.A, 515.A, 517, 519.A.3, 521, 701.A.

C. The presumption of suitability does not apply to any producer or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1254 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

#### **§525. Display of Identification Badge**

A. ...

B. The permittee's identification badge may be placed in clothing only when working near plants and during processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 7. Fees**

### **§701. Fees**

A. The licensee shall submit the following non-refundable fees with each license and permit, in the form of a certified check, J4, or money order payable to Louisiana Department of Agriculture and Forestry.

1. The license fee of \$100,000 shall be payable to the department upon issuance of the license and annually thereafter.

2. The fee for a permit shall be \$100 annually.

B. A fee in an amount not to exceed 7 percent of gross sales shall be paid quarterly to the department.

C. All fees collected by the department pursuant to this Section shall be collected from the licensee and shall be used to fund expenses relating to the regulation and control of the medical marijuana program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 9. Compliance and Inspections**

### **§907. Inspections and Observations**

A. - A.3. ...

B. A licensee shall, upon request, immediately make available for inspection by the department all papers, documents, electronically stored media, books, records and electronically stored card access records used in the licensed operations.

C. - E.5. ...

F. Upon findings of an inspection, the inspector may:

1. suspend the distribution of some or all medical marijuana from the licensed or registered premises;

2. order immediate evacuation of the premises and seal the entry door; or

3. quarantine some or all medical marijuana;

G. An inspector shall:

1. prepare a report of:

a. the observations and findings of the inspection; and

b. any suggestions or demands for corrective action;

2. deliver a copy of the report to the inspected entity and obtain a receipt for the delivery; and

3. if possible, discuss the inspection and inspection report with the licensee.

H.1.If an inspection report contains a suggestion or demand for corrective action, within five business days from the delivery of the report, the inspected entity shall:

a. respond in writing to every suggestion or demand for corrective action; and

b. set forth the plan for corrective action to be taken and the timetable for correction shall be 10 business days unless a written request for an extension is obtained.

2. failure to correct the violation will be subject to a fine of \$1,000.00 for each violation per day until paid.

3. failure to pay the violation within 30 days may result in suspension of license and a hearing before the hearing officer.

I. Upon request by the inspector, the video recording during the period of a violation of an observation of video recording shall be duplicated and provided to the department.

J. If an inspector finds evidence of operational failures or conditions that create a likelihood of diversion, contamination, or the risk to public health, an inspector may direct that the licensed premises may not distribute or participate in the distribution of any medical cannabis until the violation has been corrected and the premises pass re-inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1257 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 11. Internal Controls**

### **§1101. Internal Control for Production Facility**

A. - B.3.q. ...

r. procedures and records relating to all transport activities;

s. other information requested by the department; and

t. emergency procedures for outages.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1258 (July 2017), LR 45:

## **Chapter 15. Production Facility**

### **§1505. Restricted Areas**

A. Only permittees, law enforcement while in the course and scope of their duties, LDAF authorized inspector(s) and the department authorized representative(s), may enter restricted areas except as otherwise provided herein. The licensee shall implement procedures to ensure compliance with this Section.

1. Laboratory authorized staff may enter restricted areas for the sole purpose of identifying and collecting marijuana samples for the purposes of conducting laboratory testing;

2. Emergency personnel may enter restricted area when necessary to perform their duties;

3. Upon 24 hour written notice to the department, a production facility may allow contractors with a state issued photo identification card, to enter restricted areas when they are working on a job unrelated to medical marijuana, such as installing or maintaining security devices or performing electrical wiring; and

4. Upon 24 hour written request, with approval from the department, other persons with a state issued photo identification card, may be permitted to enter the production facility.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, LR 43:1262 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 17. Surveillance and Security**

### **§1701. Required Surveillance Equipment**

A. The licensee shall install a surveillance system on the entire premises of the production facility which shall be operational 24 hours, seven days a week. The surveillance system shall meet or exceed specifications established by the department and provide access to the department at all times.

B. - B.5. ...

C. All cameras at the entrances and exits to the production facility shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers, ID tags, and facial and body images.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

### **§1711. Security Alarm System**

A. - B.6. ...

C. The electronic security system shall be available 24 hours per day, 7 days per week, to the department via a secure web-based portal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1263 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 25. Transportation**

### **§2501. Transportation**

A. Prior to transporting an immature plant from a research facility, a shipping manifest shall be made in LMMTS.

B. The licensee or its authorized permittee shall only be allowed to transport medical marijuana or product to the following locations:

1. from its production facility to dispensaries;
2. from its production facility to a laboratory for testing or research; and
3. when a specific non-routine transport request from the licensee is approved in writing by the department.

C. The licensee or its authorized permittee shall:

1. have a valid Louisiana driver's license and be insured above the legal requirements in Louisiana; and
2. be capable of securing (locking) medical marijuana and product items during transportation.

D. Prior to transporting medical marijuana or product, a licensee shall generate a transport manifest, utilizing LMMTS, that accompanies every transport of medical marijuana or product. Such manifests shall contain the following information:

1. the name, contact information of a licensee authorized representative, licensed premises address, and the authorized permittee transporting the medical marijuana or product;
2. the name, contact information, and premises address of the marijuana pharmacy or laboratory receiving the delivery;

3. medical marijuana or product name and quantities (by weight or unit) of each item contained in each transport, along with the requisite unique identification number for every item;

4. the date of transport and time of departure;
5. arrival date and estimated time of arrival;
6. delivery vehicle make and model and license plate number; and
7. name and signature of the authorized permittee accompanying the transport.

E. Only the licensee, its authorized permittee or a receiving marijuana pharmacy may transport medical marijuana or product from the production facility. transport manifest shall correctly reflects specific inventory in transit in case of multiple dispensaries delivery in a single trip.

F. Transport manifests shall be available for viewing through LMMTS, to the marijuana pharmacy, laboratory for testing, and the department before the close of business the day prior to transport.

G. The licensee or its authorized employees shall provide a copy of the transport manifest to law enforcement if requested to do so while in transit.

H. An authorized employee of the marijuana pharmacy or approved laboratory for testing shall verify that the medical marijuana or product are received as listed in the transport manifest by:

1. verifying and documenting the type and quantity of the transported medical marijuana or product against the transport manifest; and
2. returning a copy of the signed transport manifest to the production facility.

I. A receiving marijuana pharmacy or approved laboratory for testing shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in LMMTS and in any relevant business records.

J. The licensee shall ensure that all medical marijuana, plant material, or product transported on public roadways is:

1. only transported in a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana or product, or in a locked storage container that has a separate key or combination pad;
2. transported so it is not visible or recognizable from outside the vehicle; and
3. transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical marijuana or bears the name or logo of the licensee.

K. Authorized permittees who are transporting medical marijuana or product on public roadways shall:

1. travel directly to the marijuana pharmacy or laboratory testing facility; and
2. document refueling and all other stops in transit, including:
  - a. the reason for the stop;
  - b. the duration of the stop;
  - c. the location of the stop; and
  - d. all activities of employees exiting the vehicle.

L. Every authorized permittee shall have access to a secure form of communication with the licensee and the ability to contact law enforcement through the 911 emergency systems at all times that the motor vehicle



contains medical marijuana or product. If an emergency requires stopping the vehicle, the employee shall report the emergency immediately to law enforcement through the 911 emergency systems and the licensee, which shall immediately notify the department. The employee shall also complete an incident report form provided by the department.

M. The licensee shall ensure that all delivery times and routes are randomized.

N. Under no circumstance shall any person other than a designated permittee have actual physical control of the motor vehicle that is transporting the medical marijuana or product.

O. The licensee shall staff all transport motor vehicles with a minimum of two employees. At least one employee must remain with the motor vehicle at all times that the motor vehicle contains medical marijuana or product.

P. A permittee shall carry his permittee identification card at all times when transporting or delivering medical marijuana or product and, upon request, produce the identification card to the department or to a law enforcement officer acting in the course of official duties.

Q. The licensee shall ensure that a vehicle containing medical marijuana or product in transit is not left unattended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1267 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

## **Chapter 29. Labeling**

### **§2901. Labeling Requirements**

A. Each product produced for sale shall be registered with the department on forms provided by the department for approval. Each product, as approved by the department, shall be labeled by the licensee prior to sale to a marijuana pharmacy. Each label shall be securely affixed to the package and shall include:

A.1 - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1269 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

### **§2903. Packaging Requirements**

A. - C.4. ...

D. All packaging shall be approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1270 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Mike Strain DVM  
Commissioner

1905#010

## **DECLARATION OF EMERGENCY**

### **Office of the Governor Boxing and Wrestling Commission**

#### **Blood Work Laboratory Results for Class "B" Contestants (LAC 46:XI.525)**

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). By this Emergency Rule, the commission will amend Chapter 5, Subchapter B. Class "B" Wrestling to provide small event wrestling promoters relief from the responsibility of verifying bloodwork lab reports. This responsibility was formerly held by ring doctors and/or event coordinators under Chapter 1. General Rules. Due to the promulgation of R.S. 4.83(B) in 2018, Class B events are not required to have a doctor, event coordinator or commissioner in attendance at these events to review and verify bloodwork lab reports to ensure the validity and negative results of HIV, Hepatitis B and C. The commission will provide an avenue for collection of these Class "B" lab reports and establish a database whereupon the commission will become responsible for the review and verification of these lab reports for a fee of \$150 per event. The database will contain no personal medical information. This database will be restricted to the name of the contestant, date of blood testing, the Negative or positive results and expiration date so as to track when contestants require new testing every six months in accordance with General Rule §108(A) Medical Requirements under this title.

This Emergency Rule is effective May 10, 2019, and will remain in effect for a period of 120 days, unless renewed by the Commissioner or until adoption of the final Rule, whichever occurs first.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

## **Chapter 5. Professional Wrestling**

### **Subchapter B. Class "B" Wrestling**

#### **§525. Wrestling Promoters Class "B" Licensing**

A. - F. ...

G. Blood work laboratory results for Class "B" contestants, as required by General Rules - §108(A) Medical Requirements, will be reviewed and verified by the commission and the results entered into an established database.

1. Class "B" contestant's lab reports will be submitted to the commission directly from the testing physician's laboratory or independent laboratory via hard copy, fax or other electronic submission to confirm negative results and verification of legitimacy.

2. A fee of \$150 per Class "B" event will be collected by the commission from the promoter to cover the costs of this verification process.

AUTHORITY NOTE: Promulgated in accordance with 4:64, 4:65 and 4:83(B)

HISTORICAL NOTE: Adopted by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019), amended LR 45:

Buddy Embanato  
Chairman

1905#015

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2019 Spring Inshore Shrimp Season Opening**

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2019 Spring Inshore Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the eastern shore of South Pass of the Mississippi River to open at 6 a.m., May 27, 2019.

That portion of state inside waters from the eastern shore of South Pass westward to the western shore of Freshwater Bayou Canal to open at 6 a.m., May 20, 2019.

That portion of state inside waters from the western shore of Freshwater Bayou Canal westward to the Louisiana/Texas state line to open at 6 a.m., May 27, 2019.

The commission hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the Secretary will be made by public notice at least 72 hours prior to such action.

Alfred R. Sunseri  
Chairman

1905#025

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

Opening of Shrimp Season in a  
Portion of State Outside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that small white shrimp, which have over-wintered in these waters from January through the present time, have reached marketable sizes and the closure is no longer necessary. Significant numbers of smaller size white shrimp still remain in state outside waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal and these waters will remain closed to shrimping until further notice. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 2, 2018 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares:

The portion of state outside waters between Calliou Boca and the Atchafalaya River Ship Channel at Eugene Island shall reopen to shrimping at 12 p.m. on April 25, 2019. The eastern boundary line originates on the northwest shore of Calliou Boca at 29 degrees 02 minutes 46 seconds north latitude, -90 degrees 50 minutes 27 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30 seconds north latitude, -90 degrees 51 minutes 57 seconds west longitude. The western boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.933 seconds north latitude, -91 degrees 22 minutes 58.916 degrees west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.889 seconds north latitude, -91 degrees 26 minutes 16.049 seconds west longitude.

Jack Montoucet  
Secretary

1905#004

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Wildlife Management Areas Turkey Season Closure**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the Wildlife and Fisheries Commission hereby finds that imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

Dewey W. Wills, Grassy Lake and Richard K. Yancey Wildlife Management Areas in their entirety shall be closed to turkey hunting.

Due to extremely high water levels associated with excessive rainfall and backwater flooding, the majority of Dewey W. Wills, Grassy Lake and Richard K. Yancey Wildlife Management Areas are inundated with floodwater.

Turkeys on these areas are confined to a small percentage of high ground that is not inundated, creating conditions for harvest levels well beyond what may occur under normal conditions. Continued unrestricted hunting poses a potential risk of overharvest of the turkey resource, eliminates fair chase, and may pose a safety risk to the hunting public because of the concomitant concentration of hunters in areas where turkey are abnormally concentrated. Therefore, until the high water recedes, it is deemed necessary to close turkey season on these Wildlife Management Areas.

This Declaration of Emergency shall become effective April 3, 2019, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Alfred R. Sunseri  
Chairman

1905#007

# Rules

## RULE

### Department of Children and Family Services Child Support Enforcement Section

#### Criminal History Records Checks for Access to Federal Tax Information (LAC 67:I.205)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) has promulgated LAC 67:I.205, Criminal History Records checks for Access to Federal Tax Information (FTI).

R.S. 46:51.3 grants the Department of Children and Family Services authority to perform criminal history records checks of current and prospective employees, contractors and subcontractors. The statute mandates that the department promulgate rules to implement the requirements specified in R.S. 15:587.5. DCFS enacts §205, Criminal History Checks for Access to Federal Tax Information, to detail the procedures to be followed by the department in performance of required criminal history checks. This Rule is adopted on the day of promulgation and is effective on June 1, 2019.

## Title 67

### SOCIAL SERVICES

#### Part I. General Administration

#### Chapter 2. Criminal Background and State Central Registry Checks

##### §205. Criminal History Records Checks for Access to Federal Tax Information

A. Pursuant to R.S. 46:51.3, the Department of Children and Family Services shall perform criminal history records checks of current and prospective employees, contractors, or subcontractors, within the office of child support enforcement and family support, that have access to federal tax information (FTI) and/or criminal history record information.

1. In compliance with the requirements of R.S. 15:587.5, current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support shall be required to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information by the current or prospective employee, contractor, or subcontractor.

2. The department shall also request local criminal history records checks for current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support with access to FTI and/or criminal history record information. The local criminal history records checks request shall be sent to any jurisdiction where the current or prospective employee,

contractor, or subcontractor has lived, worked, or attended school within the last five years.

3. Fingerprinting and national, state, and local criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support sections to access FTI and records.

a. Prospective employees shall be subject to fingerprinting and national, state, and local criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state, and local criminal history records checks, at a minimum of every 10 years.

4. The costs of providing the criminal history records check for current employees, contractors, or subcontractors within the office of child support enforcement and family support shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with Act 147 of the 2017 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Support Enforcement Section, LR 45:651 (May 2019).

Marketa Garner Walters  
Secretary

1905#052

## RULE

### Department of Children and Family Services Licensing Section

#### State Central Registry—Juvenile Detention Facilities (LAC 67:V.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities.

The Rule amends Chapter 75, Juvenile Detention Facilities, §§7505, 7507, and 7511, and promulgates §7508. In accordance with R.S. 15:1110.2, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified (valid) finding of child abuse and/or neglect. Each provider

licensed by the DCFS shall submit a request for a state central registry check for all owners, staff, contractors, LDE staff, and volunteers prior to November 16, 2018. The implementation of this Rule ensures that no Individual with a justified (valid) finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS. This Rule is hereby adopted on the day of promulgation, and it is effective on June 1, 2019.

#### **Title 67**

#### **SOCIAL SERVICES**

#### **Part V. Child Welfare**

#### **Subpart 8. Residential Licensing**

#### **Chapter 75. Juvenile Detention Facilities**

#### **§7505. Definitions**

\* \* \*

*Individual Owner*—repealed.

\* \* \*

*LDE Staff*—Louisiana Department of Education or local school district staff.

\* \* \*

*Owner or Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present;

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

*Ownership*—repealed.

\* \* \*

*Provider*—all owners or operators of the facility including the director of such facility.

\* \* \*

*Reasonable Suspicion*—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a

minor resulting in a justified and/or valid finding prior to official notification from child welfare whether the person is or is not listed on the state central registry.

\* \* \*

*State Central Registry (SCR)*—a subsystem of the state repository that maintains information on perpetrators of child abuse and neglect with valid findings on tiers I, II, and III of the child welfare tiered validity system.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1110.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019.

#### **§7507. Licensing Requirements**

A. - A.14. ...

15. Any owner/owners of a juvenile detention facility shall provide documentation of a state central registry clearance from child welfare and satisfactory fingerprint based criminal record check conducted by Louisiana State Police.

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of the state central registry clearance and a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. - B.1.q. ...

r. documentation of a state central registry clearance as required in §7508.

B.2. - F.3.a.ix ...

x. documentation of a state central registry clearance as required in §7508.

F.3.b. - G.1.c. ...

d. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is named or if the staff member who is named remains in the employment of the licensee;

G.1.e. - G.1.m. ...

n. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from child welfare that the individual is listed on the state central registry;

o. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

H. - I.7. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1110.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December

2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019.

#### **§7508. State Central Registry**

A. On November 1, 2018, and no later than November 9, 2018, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) employed/providing services as of November 1, 2018, to licensing management staff and shall attest that the information submitted is true and correct. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. In addition, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) that have resided in another state within the previous five years which shall include the individual's name and state(s) in which the individual resided. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. If no owner/operator, contractor, or staff resided in another state within the previous five years, provider shall submit a signed statement attesting to such to Licensing Section management staff.

##### **B. Current Owners as of November 1, 2018**

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each owner/operator including board members who meet the definition of an owner to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if an owner/operator is currently listed on the state central registry as a perpetrator of valid (justified) abuse and/or neglect. No person who is recorded on any state central registry with a valid (justified) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator is not listed on the state central

registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry.

5. Upon notification to the juvenile detention facility from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to licensing within seven calendar days verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

6. If after an initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new justified (valid) finding, the owner/operator receives a subsequent notice that he/she is listed on the state central registry and he/she advises the juvenile detention facility of the new information prior to receiving official notification from child welfare, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

##### **C. Prospective Owners Effective November 1, 2018**

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all owners (including board members who meet the definition of an owner) and operators shall be conducted prior to a license being issued. For owners/operators, including board members who meet the definition of an owner who resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the license being issued. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the owner/operator is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his/her position on the board/been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit documentation to licensing verifying that the individual's name has been removed from the Secretary of State's website to licensing if owned by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

6. If after an initial state central registry clearance form is received by juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new valid finding against the owner/operator receives a subsequent notice (issued after the provider was licensed) that he/she is listed on the state central registry and the owner/operator advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator, shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination

of abuse and/or neglect. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

#### D. Current Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each currently employed staff (paid and non-paid staff and volunteers) to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For staff who have resided in another state within the proceeding five years, provider shall request information from that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible for employment or to provide volunteer services with the facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff has been relieved of his/her position at the agency with the effective date of the termination. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the state central registry clearance form is received by provider from child welfare noting that the staff

is not listed on the state central registry and due to a new valid finding the staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect, at any and all times when he/she is on the premises and/or in the presence of a child/youth, shall be directly supervised by another paid staff (employee) of the juvenile detention facility. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

E. Prospective Staff Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the proceeding five years, provider shall request a state central check from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the staff is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible for employment or to provide volunteer services in a licensed juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile

detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment or to provide volunteer services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff with the justified (valid) finding of abuse and/or neglect will not be hired for a position at the agency. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

F. Current Contractors and LDE Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a request to DCFS child welfare for a check of the state central registry for each contractor and LDE staff. The request shall be submitted to child welfare no later than November 16, 2018. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check no later than November 16, 2018, and obtain clearance information from that state's child abuse and neglect registry. Documentation of request shall be available for review.



a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible to provide contracted services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the individual is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual will no longer provide services to the agency with the effective date of the termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the contractor or LDE staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official

determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

G. Prospective Contractors and LDE Staff Providing Services Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible to provide services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for the contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. The state central registry clearance form shall be dated no earlier than 45 days of the individual being present

on the juvenile detention facility premises or having access to children/youth.

6. Upon notification to the provider from child welfare or any other state that the contractor or LDE staff is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the justified (valid) finding of abuse and/or neglect has been relieved of his duties with the juvenile detention facility with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

7. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. State central registry clearances are not transferable between owners.

#### H. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner/operator, contractor, LDE staff, volunteer, and/or staff, is a perpetrator of abuse and/or neglect after November 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from child welfare, shall be verbally immediately reported to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1110.2.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:653 (May 2019), effective June 1, 2019.

#### **§7511. Facility Responsibilities**

A. - A.3.d.i. ...

e. Each volunteer shall have documentation of a state central registry clearance from child welfare as required in §7508.

B. - B.5.b.iii. ...

c. Documentation of a state central registry clearance for all Louisiana Department of Education staff or local school district staff that interact with youth following the procedure outlined in §7508.

6. Documentation of a state central registry clearance from child welfare as required in §7508.

C. - H.1.a.vii. ...

viii. documentation of a state central registry clearance for all owners and staff as required in §7508.

H.2. - L.2 ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1110.

**HISTORICAL NOTE:** Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:657 (May 2019), effective June 1, 2019.

Marketa Garner-Walters  
Secretary

1905#051

#### **RULE**

#### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice**

#### **General Subgrant Guidelines (LAC 22:III.4301, 4501, 4505, 4507, 4509 and 6101)**

In accordance with the provision of R.S. 15:1204, R.S. 15:1207, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice hereby adopts rules and regulations relative to subgrants. The Rule is hereby adopted on the day of promulgation.

#### **Title 22**

#### **CORRECTIONS, CRIMINAL JUSTICE, and LAW ENFORCEMENT**

#### **Part III. Commission on Law Enforcement and Administration of Criminal Justice**

#### **Subpart 3. General Subgrant Guidelines**

#### **Chapter 41. Procedures**

#### **§4301. Applicability**

A. When an application for funding is rejected by the commission, or when an approved subgrant is discontinued, the applicant or subgrantees may appeal the decision of the commission by filing a written notice of appeal with the Louisiana Commission on Law Enforcement at the recognized business address. The notice of appeal must be sent via certified mail and must be filed no later than 15

business days after receipt of the notice of denial by the applicant or subgrantee.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:64 (February 1982), amended LR 11:252 (March 1985), amended LR 45:657 (May 2019)

## **Chapter 45. Guidelines**

### **§4501. Limitations**

A. Anything in this guidance that is in conflict with applicable federal law, regulation or guidance, or with applicable state law shall not prevail.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019).

### **§4505. Indirect Costs**

A. ...

B. Indirect costs on federal subgrants are subject to federal guidance and may be limited further by the respective advisory boards. Indirect costs are not to exceed 10 percent of modified total direct costs. A current Indirect Cost Rate or Allocation Plan previously approved by the cognizant federal agency must be on file with LCLE before submittal of applications to the respective advisory boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019).

### **§4507. Regional Planning Units and Criminal Justice Coordinating Councils**

A. ...

B. The commission may make direct grants of administrative funds to RPU's or CJCC's. Any such grants are subject to an increase or reductions received by LCLE from the responsible funding authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019).

### **§4509. Funding Restrictions**

A. - C. ...

D. There are special requirements relative to the following:

1. Private, Non-Profit Agencies, Private, non-profit agencies, with the exception of an RPU or CJCC, will be required to have a current surety bond equal to the amount of the subgrant.

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of

Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019).

## **Subpart 5. Grant Application or Subgrants Utilizing Federal, State or Self-Generated Funds**

### **Chapter 61. Policies and Procedures**

#### **§6101. VOCA and VAWA Grants**

A. ...

B. The Victims of Crime Act of 1984 (VOCA) established within the U.S. Treasury an account funded by federal fines, penalties and forfeited bail bonds to be used for the purpose of funding victim assistance grants to the states. These grants are to be used for programs that provide direct services to victims of crime, with priority given to programs that have as their principal mission direct assistance to victims of sexual assault, spousal abuse, child abuse, and previously underserved victims of violent crime. VOCA funds in the state are administered by the Louisiana Commission on Law Enforcement in consultation with Victim Services Advisory Board to the Commission. The VOCA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

C. ...

D. The Violence Against Women Act (VAWA) of 1994 was designed to improve criminal justice system responses to domestic violence, sexual assault, and stalking, and to increase the availability of services of these crimes. The State office shall allocate funds to courts, and for law enforcement, prosecution and victim services (including funds that must be awarded to culturally specific community-based organizations.) The VAWA program in Louisiana is administered pursuant to the federal regulations in effect for the program.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 8:63 (February 1982), amended LR 11:253 (March 1985), LR 32:80 (January 2006), amended LR 45:658 (May 2019).

Jim Craft  
Executive Director

1905#046

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigation Division**

Recycling Tax Credit Reduction  
(LAC 33:VII.10415)(SW065)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures has amended the Solid Waste regulations, LAC 33:VII.10415 (SW065).

This Rule reduces the amount of the credit, related to purchase of qualified new recycling manufacturing, process

equipment, and/or a qualified service contract pertaining to equipment, from 20 to 14 percent.

Louisiana Revised Statute 47:6055 authorizes an income tax credit for purchase of new recycling manufacturing, process equipment, and/or a service contract pertaining to the equipment. Act 400 of the 2017 Regular Legislative Session made the reduction credit permanent for equipment or service contracts. The Rule implements the change in R.S. 47:6055. The basis and rationale of this Rule is to conform with revisions to the Louisiana statutes. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part VII. Solid Waste**

#### **Subpart 2. Recycling**

### **Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts**

#### **§10415. Amount of Credit**

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

Cost of equipment	\$1,000,000
	X .14
	\$ 140,000
Less other Louisiana credit on purchase	\$ 40,000
Maximum credit for all taxable periods	\$ 100,000

B. Fourteen percent of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	\$ 100,000
	X .14
Credit earned for this taxable period	\$ 14,000

C.-E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6005.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, amended LR 45:659 (May 2019).

Herman Robinson  
General Counsel

1905#029

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division**

#### **UST New and Used Motor Oil Storage Fee Correction (LAC 33:XI.307) (UT019)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tanks Regulations, LAC 33:XI.307 (UT019).

This Rule will correct the fee for storing new or used motor oil in underground storage tanks. R.S. 30:2195.3 specifies a fee of \$275 for this storage. Act 451 of the 2016 Regular Legislative Session authorized certain fee increases, new fees, and other changes to the regulations pertaining to fees. A change to the fee for storing new or used motor oil in an underground storage tank found in R.S. 30:2195.3 was not included in Act 451. This correction will make the fee in the regulation match the fee in the statute. The basis and rationale for this Rule are to implement the fee specified in R.S. 30:2195.3. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation

### **Title 33**

## **ENVIRONMENTAL QUALITY**

### **Part XI. Underground Storage Tanks**

### **Chapter 3. Registration Requirements, Standards, and Fee Schedule**

#### **§307. Fee Schedule**

A. - B.3. ...

4. Fees are assessed according to the following schedule.

Fee Number	Annual Fees	Amount
<b>1</b>	<b>Annual Registration Fee</b>	
	All registered UST systems	\$60
<b>2</b>	<b>Annual Maintenance and Monitoring Fees</b>	
a	UST systems at federal facilities (all categories except USTs defined in Fee Number 2.b., which shall be assessed the higher fee)	\$174
b	UST systems containing any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$726
c	UST systems containing petroleum products not meeting the definition of motor fuels	\$174
<b>3</b>	<b>Motor Fuels Underground Storage Tank Trust Fund Fee</b>	
	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$275

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:950 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1597 (September 2018), amended LR:45:659 (May 2019).

Herman Robinson  
General Counsel

1905#031

## RULE

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigation Division

#### Waste Tire Fees (LAC 33:VII.10519, 10521 and 10535)(SW066)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10519, 10521, and 10535 (SW066).

This Rule provides for changes to the waste tire fees which were authorized in Act 451 of the 2016 Regular Legislative Session and Act 541 of the 2018 Regular Legislative Session. The basis and rationale for this Rule are to implement the fee changes authorized in Act 451 of the 2016 Regular Legislative Session and Act 541 of the 2018 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part VII. Solid Waste

#### Subpart 2. Recycling

### Chapter 105. Waste Tires

#### §10519. Standards and Responsibilities of Waste Tire Generators and Sellers of Tires

A. - B. ...

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2.25 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For

recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. These fees shall also be collected upon replacement of all recall and adjustment tires. These fees shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

D. - F.1. ...

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee from the consumer at the time of the retail sale of \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, \$10 for each off-road tire, and \$1.25 for recapped or retreaded tires. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires."

G. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:255 (February 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, amended LR 45:660 (May 2019).

#### §10521. Standards and Responsibilities of Sellers of Motor Vehicles

A. ...

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the \$2.25 waste tire fee for each tire upon the sale of each vehicle with passenger/light truck tires, the \$5 waste tire fee for each tire upon the sale of each vehicle with medium truck tires, and the \$10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire. These fees shall also be collected upon replacement of all recall and adjustment tires. The department does not require the collection of fees on the sale of a vehicle with tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. - E. ...

F. Motor vehicle dealers shall prominently display to the public the notification provided by the administrative authority, indicating that:

“All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon the sale of each new motor vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.”

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:256 (February 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, amended LR 45:660 (May 2019).

#### **§10535. Fees and Fund Disbursement**

A. - A.6. ...

B. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer at the time of retail sale. The fee shall be \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. This fee shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:268 (February 2016), LR 43:948 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, amended LR 45:661 (May 2019).

Herman Robinson  
General Counsel

1905#030

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division**

#### **Water Transfer (LAC 33:IX.2315) (WQ100ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.2315 (Log #WQ100ft). This Rule is hereby adopted on the day of promulgation.

This Rule is identical to federal regulations found in 40 CFR Part 122.3(i), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule has been amended in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adds water transfer discharges to the list of exclusions for a Louisiana Pollutant Discharge Elimination System, LPDES, permit. Federal regulations, which became effective on August 12, 2008, clarified that water transfers are not subject to regulation under the National Pollutant Discharge Elimination System (NPDES) permitting program. The basis and rationale are to mirror existing federal regulations found at 40 CFR 122.3(i). This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### **Title 33**

### **ENVIRONMENTAL QUALITY**

#### **Part IX. Water Quality**

#### **Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program**

#### **Chapter 23. Definitions and General LPDES Program Requirements**

#### **§2315. Exclusions**

A. - A.7. ...

8. discharges from a water transfer: Water transfer means an activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use. This exclusion does not apply to pollutants introduced by the water transfer activity itself to the water being transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004), amended by the Office of the Secretary, Legal

Herman Robinson  
General Counsel

1905#032

## RULE

### Department of Health Bureau of Health Services Financing

#### Direct Service Worker Registry (LAC 48:I.Chapter 92)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 92 as authorized by R.S. 36:254 and 40:2179-2179.1. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing

#### Chapter 92. Direct Service Worker Registry

#### Subchapter A. General Provisions

#### §9201. Definitions

\* \* \*

*Assistance with Activities of Daily Living*—such assistance may be the actual performance of the task for the individual, or may provide hands-on assistance with the performance of the tasks, or may include supervision and prompting to allow the individual to self-perform such tasks.

\* \* \*

*Daily Monitoring*—activities pursued on a daily basis by a family member, direct service worker and/or other health care providers for the purposes of collecting critical information needed to assure the individual's welfare. Monitoring activities may include, but are not limited to face-to-face home visits with the person receiving assistance or services and/or daily telephone calls with the individual or communication by other electronic means.

\* \* \*

*Department*—the Louisiana Department of Health (LDH).

\* \* \*

*Direct Service Worker Registry*—the negative database, maintained by the department, or its designee, of unlicensed persons who have a finding placed against them of abuse, neglect, misappropriation, exploitation, or extortion while employed as a DSW at a licensed health care facility or entity who are ineligible to be employed, or have continued employment, as a direct service worker.

\* \* \*

*Finding*—allegations of abuse, neglect, misappropriation, exploitation or extortion that are placed against the DSW on the registry by the department for the following reasons:

1. - 2. ...

*Health Care Provider*—any health care facility, agency, or entity licensed and/or certified by LDH. Such entities may be referred to in other laws, statutes and regulations as

providers, agencies, clinics, residential care units, homes or facilities. Health care providers include, but are not limited to, the following:

1. - 10. ...

*Health Standards Section (HSS)*—the section of the Department of Health responsible for the licensing and/or certification of health care providers.

*Home and Community-Based Services*—those services as defined in R.S. 40:2120.2 or a successor statute. For the purposes of this Rule, home and community-based services do not include services provided in day or residential congregate care settings including, but not limited to, the following:

1. - 6. ...

7. any other 24-hour facility licensed by the department, Department of Education or the Department of Children and Family Services, exclusive of center-based respite facilities.

\* \* \*

*Mental Abuse*—emotional or mental abuse may involve any activity that is designed to blame, shame, humiliate, or intimidate an individual and includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame, agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

- a. photographs and recordings of clients that contain nudity;
- b. sexual and intimate relations;
- c. bathing, showering or toileting;
- d. providing perineal care, such as after an incontinence episode;
- e. agitating a client to solicit a response;
- f. derogatory statements directed to the client;
- g. showing a body part of the client without the client's face, whether it is the chest, limbs or back;
- h. labeling a client's pictures and/or providing comments in a demeaning manner;
- i. directing a client to use inappropriate language; and/or
- j. showing a client in a compromised position.

\* \* \*

*Neglect*—the failure by a caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his/her well-being, unless the resident exercises his/her right to refuse the necessary care.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3175

(December 2012), LR 42:893 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:662 (May 2019).

## **§9202. Introduction**

A. The Department of Health (LDH) shall maintain a registry of individuals for whom specific findings of abuse, neglect, misappropriation, exploitation or extortion have been substantiated by the department, an administrative law judge, or a court of law.

B. The Direct Service Worker Registry will contain the following items on each individual for whom a finding has been placed:

1. - 3. ...

4. an accurate summary of finding(s); and

5. information relative to registry status which will be available through procedures established by the Health Standards Section (HSS).

6. Repealed.

C. Licensed and/or certified health care providers shall access the registry to determine if there is a finding that a prospective hire, or currently employed or contracted DSW, has been determined to have committed exploitation, extortion, abuse or neglect of an individual being supported, or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired as a DSW nor shall a current employee have continued employment as a DSW with the licensed and/or certified health care provider.

1. Access to the registry shall be limited to an inquiry for a specific DSW.

D. - D.1. ...

E. The provisions of this Chapter shall apply to DSWs who are compensated, either by direct employment or through contract, regardless of the setting, and specifically do not apply to those DSWs listed on the Certified Nurse Aide Registry established under rules promulgated by the LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:663 (May 2019).

## **Subchapter B. Reserved.**

## **Subchapter C. Provider Participation**

### **§9231. Health Care Provider Responsibilities**

A. Prior to hiring any DSW or trainee, the licensed and/or certified health care provider shall:

1. ensure that the individual is at least 18 years of age;

2. document that the individual is able to read, write and comprehend the English language; and

3. access the registry in accordance with the provisions of §9202.C-C.1.

B. The health care provider shall have a written policy/process to check the DSW registry on the department's designated database at least every six months to determine if any currently employed or contracted DSW

or trainee has been placed on the registry with a finding that he/she has been determined to have committed abuse or neglect of an individual being supported or misappropriated the individual's property or funds or committed exploitation or extortion of an individual being supported.

1. ...

2. If there is such a finding on the registry, the employee shall not have continued employment as a DSW with the licensed and/or certified health care provider in accordance with the provisions of §9202.C.

NOTE: The DSW registry is maintained on the department's designated database which may also contain other exclusionary information on a DSW. The provider's responsibility to access the database shall also be conducted in accordance with other departmental rules and regulations, as applicable.

D. Criminal History. In accordance with RS 40:1203.1-5 et seq., the provider shall have a written policy and process to request in writing a security check and the criminal history of an employee, either contracted or directly employed, conducted by the Louisiana State Police or authorized agency, upon offer of employment or contract.

1. An employer may make an offer of temporary employment to a non-licensed person pending the results of the criminal history and security check on the person. In such instances, the employer shall provide to the Louisiana State Police, or authorized agency, the name and relevant information relating to the person within 72 hours after the date the person accepts temporary employment.

2. The security check shall consist of the use of personal identifiers, such as name, social security number, date of birth, and driver's license number, to search the national sex offender public registry. The provider shall obtain from the Louisiana State Police or the authorized agency the results of the security check to verify if an applicant is listed in the national sex offender public registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:663 (May 2019).

## **Subchapter D. Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

### **§9243. General Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

A. A registered nurse shall authorize and monitor medication administration and noncomplex tasks performed by the direct service workers. In order for the RN to authorize these tasks, the direct service worker shall:

1. ...

2. attend to an individual who:

a. - c. ...

d. receives periodic assessment by a RN based on the person's health status and specified within the plan of care; in no case shall the periodic assessment be less than annually. A comprehensive assessment performed for a



client in accordance with policies and procedures established by Medicaid or by a LDH program office may serve as the basis of the RN assessment but may not be used in lieu of the RN assessment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:663 (May 2019).

**§9245. Training Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

A. - A.2. ...

3. Based on the nursing assessment and clinical judgment, the RN shall provide additional person-specific training when the person receiving care has a change in health status or physician orders and yet remains in a stable, predictable condition. The RN may make a determination based upon his/her assessment of the worker's competency that training can be safely performed via telephone contact, other means of electronic communication, or face-to-face contact with the worker. Examples include, but are not limited to:

A.3.a. - B.3.b.iv. ...

C. A direct service worker who has not completed didactic training and demonstrated competency in accordance with guidelines established and approved by the Department of Health and the Louisiana Board of Nursing shall not be allowed to perform medication administration or any noncomplex tasks covered by this Rule.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:664 (May 2019).

**§9249. Authorized Medication Administration and Noncomplex Tasks in Home and Community-Based Settings**

A. - A.2. ...

3. other noncomplex tasks as identified by guidelines established and approved by the Department of Health and the Louisiana Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3178 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:664 (May 2019).

**Subchapter E. Violations**

**§9273. Prohibited Direct Service Worker Conduct**

A. The department provides a process for the review and investigation of all allegations of wrong-doing by DSWs. The following constitutes prohibited DSW conduct:

1. verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on an individual being supported;
2. neglect of an individual being supported; or

3. exploitation, extortion, or misappropriation of the individual's person, property or funds, inclusive of, but not limited to, the following:

- a. credit card fraud;
- b. theft of a firearm;
- c. identity theft;
- d. fraudulent acquisition of a credit card; or
- e. theft of a vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:664 (May 2019).

**§9275. Notice of Violation**

A. When there are substantiated allegations against the direct service worker, either through oral or written evidence, the department will notify the individual(s) implicated in the investigation of the following:

1. - 2. ...

3. appeal rights/opportunities:

- a. the right to request from HSS an informal discussion (informal dispute resolution process); and
- b. the right to request from the Division of Administrative Law an administrative hearing (appeal); or
- c. the right to bypass the informal dispute resolution process and request appeal with the Division of Administrative Law.

4. Repealed.

B. The specified timeframe, up to and including permanent status, to cease employment as a DSW in a licensed health care facility will be indicated in the notice letter of placement of the finding against the DSW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:664 (May 2019).

**Subchapter F. Administrative Hearings**

**§9285. General Provisions**

A. - A.3. ...

a. Notification of the finding of abuse, neglect, exploitation, extortion, and/or misappropriation will then be sent to the DSW registry to be recorded.

B. - C. ...

D. If there is a final and binding administrative hearing decision to place a finding on the DSW registry against the direct service worker, the department shall place the direct service worker's name and the adverse findings on the DSW registry. The finding(s) may remain on the DSW registry against the DSW for a specified length of time up to and including permanently dependent on the severity and nature of the offense.

1. The specified timeframe, up to and including permanent status, to cease employment as a DSW in a licensed health care facility will be stated in the notice letter of placement of the finding against the DSW.

E. Removal of the DSW's name from the DSW registry.  
1. For those DSWs who only have a placement of finding of neglect, HSS will consider removal of the DSW's name from the registry only upon the DSW's written request to the department for reinstatement and in accordance with the following:

a. the employment and personal history of the DSW does not reflect a pattern of abusive behavior or neglect or instances of misappropriation, exploitation or extortion of an individual being supported;

b. the neglect involved in the original finding was a singular occurrence; and

c. a period of no less than one year has passed since the DSW's name was placed on the registry barring employment in a licensed health care facility as a DSW.

3. If the DSW successfully petitions the department to remove the DSW's name from the registry, the DSW will be notified in writing of such determination and date of removal.

4. If the DSW unsuccessfully petitions the department to remove the DSW's name from the registry, the DSW will be notified in writing of the department's decision and their right to an administrative appeal in accordance with §9275.A(3)a-c.

5. There shall be only one opportunity for a DSW to request removal of their name from the DSW registry.

6. There is no opportunity afforded for a DSW to request removal of a finding of abuse, extortion, misappropriation or exploitation placed against them on the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, amended LR 45:664 (May 2019).

Rebekah E. Gee MD, MPH  
Secretary

1905#040

## **RULE**

### **Department of Health Bureau of Health Services Financing**

#### **Pharmacy Benefits Management Program Federal Upper Payment Limits and Physician-Administered Drugs Reimbursement (LAC 50:XXIX.105 and 949)**

The Department of Health, Bureau of Health Services has amended LAC 50:XXIX.105 and §949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXIX. Pharmacy**

##### **Chapter 1. General Provisions**

##### **§105. Medicaid Pharmacy Benefits Management**

###### **System Point of Sale—Prospective Drug Utilization Program**

A. - B. ...

C. Covered Drug List. The list of covered drugs is managed through multiple mechanisms. Drugs in which the manufacturer entered into the Medicaid Drug Rebate Program with CMS are included in the list of covered drugs. National average drug acquisition cost (NADAC) and usual and customary charges assist in managing costs on the covered drug list. Federal upper limits provide for dispensing of multiple source drugs at established limitations unless the prescribing practitioner specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for management.

D. Reimbursement Management. The cost of pharmaceutical care is managed through NADAC of the ingredient or through wholesale acquisition cost (WAC) when no NADAC is assigned, and compliance with FUL regulations, the establishment of the professional dispensing fee, drug rebates and copayments. Usual and customary charges are compared to other reimbursement methodologies and the "lesser of" is reimbursed.

E. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), amended LR 45:665 (May 2019).

##### **Chapter 9. Methods of Payment**

##### **Subchapter D. Maximum Allowable Costs**

##### **§949. Fee for Service Cost Limits**

A. - B.1.a. ...

2. federal upper payment limits plus the professional dispensing fee; or

a. Repealed.

3. the provider's usual and customary charges to the general public not to exceed the department's "maximum payment allowed."

a. For purposes of these provisions, the term general public does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

C. Federal Upper Payment Limits for Multiple Source Drugs

1. Except for drugs subject to "physician certification," the Medicaid Program shall utilize listings established by the Centers for Medicare and Medicaid Services (CMS) that identify and set upper limits for multiple source drugs that meet all of the following requirements:

a. All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been

evaluated as therapeutically equivalent in the most current edition of their publication, Approved Drug Products with Therapeutic Equivalence Evaluations (including supplements or in successor publications).

b. At least three suppliers list the drug, which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

2. Medicaid shall utilize the maximum acquisition cost established by CMS in determining multiple source drug cost.

a. - c. Repealed.

3. The Medicaid Program shall provide pharmacists who participate in Medicaid reimbursement with updated lists reflecting:

a. the multiple source drugs subject to federal multiple source drug cost requirements;

b. the maximum reimbursement amount per unit; and

c. the date such costs shall become effective.

#### D. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is dated and attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

2. Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;

b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank; or

c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

E. Fee for Service 340B Purchased Drugs. The department shall make payments for self-administered drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee, unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to or reimbursed by Medicaid. 340B contract pharmacies shall not bill 340B stock to Medicaid. Fee-for-service outpatient hospital claims for 340B drugs shall use a cost to charge methodology on the interim cost report and settled during final cost settlement. Federally qualified health center (FQHC) and rural health clinic (RHC) claims for physician administered drugs shall be included in the all-inclusive T1015 encounter rate.

F. Federal Supply Schedule Drugs. Drugs acquired at federal supply schedule (FSS) and at a nominal price shall be reimbursed at actual acquisition cost plus a professional dispensing fee.

G. Indian Health Service All-Inclusive Encounter Rate. Pharmacy services provided by the Indian Health Service (IHS) shall be included in the encounter rate. No individual pharmacy claims shall be reimbursed to IHS providers.

H. Mail Order, Long-Term Care and Specialty Pharmacy. Drugs dispensed by mail order, long-term care and/or specialty pharmacies (drugs not distributed by a retail community pharmacy) will be reimbursed using the brand/generic drug reimbursement methodology.

1. - 2.b.iv. Repealed.

I. Physician-Administered Drugs. Medicaid-covered physician-administered drugs shall be reimbursed according to the Louisiana professional services fee schedule. Reimbursement shall be determined utilizing the following methodology, and periodic updates to the rates shall be made in accordance with the approved Louisiana Medicaid State Plan provisions governing physician-administered drugs in a physician office setting.

1. Average sales price (ASP) plus 6 percent, for drugs appearing on the Medicare file.

2. Reimbursement rates for drugs that do not appear on the Medicare file shall be determined utilizing the following alternative methods:

a. the wholesale acquisition cost (WAC) of the drug, if available;

b. if there is no WAC available, the reimbursement rate will be 100 percent of the provider's current invoice for the dosage administered.

J. Clotting Factor. Pharmacy claims for clotting factor will be reimbursed using the brand/generic drug reimbursement methodology.

K. Investigational or Experimental Drugs. Investigational or experimental drugs shall not be reimbursed by Medicaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017), LR 44:1020 (June 2018), amended LR 45:665 (May 2019).

Rebekah E. Gee MD, MPH  
Secretary

1905#039

## RULE

### Department of Health Office of Public Health

Disease Reporting Requirements; Public Health  
Immunization Requirements; and Anti-Rabies Vaccination  
Requirements for Dogs and Cats  
(LAC 51:II.Chapter 1, 701 and III.Chapter 1)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), pursuant to the authority in R.S. 40:4(A)(2), and R.S. 40:5, amends and revises Title 51 (Public Health—Sanitary Code), Part II (The Control of Diseases).

The amendments to Part II, Chapter 1, are regarding disease reporting requirements. The revisions to these requirements will keep them up to date with current national and state disease surveillance needs. Amendments to Part II, Chapter 7, are regarding the immunization schedule. The proposed revisions to these requirements will update the Louisiana immunization schedule in accordance with the Advisory Committee on Immunization Practice (ACIP) of the United States Public Health Service.

In addition, the state health officer acting through the LDH-OPH, pursuant to the authority in R.S. 40:4(A)(2), R.S. 40:5(A)(1)(2) and R.S. 40:1269.3, also amends and revises Title 51, Part III (The Control of Rabies and Other Zoonotic Diseases). This amendment relates to the appropriate re-vaccination interval of dogs and cats based upon the particular anti-rabies vaccine being administered to the animal, as well as updates required actions for domestic animals bitten by rabid animals to conform to current national best practices.

The amendments are made by effecting substantive changes as outlined below. This Rule is hereby adopted on the day of promulgation.

## **Title 51**

### **PUBLIC HEALTH—SANITARY CODE**

#### **Part II. The Control of Diseases**

#### **Chapter 1. Disease Reporting Requirements**

##### **§101. Definitions**

##### **[formerly paragraph 2:001]**

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

\* \* \*

*Case*—a particular instance of disease.

*Case of Perinatal Exposure to Human Immunodeficiency Virus (HIV)*—any instance of a live birth to a woman in whom HIV infection was present prior to the birth (indicated by maternal or neonatal HIV testing).

*Case of Perinatal Exposure to Treponema Pallidum*—any instance of a live birth or stillbirth to a woman in whom syphilis infection was present prior to the birth (indicated by maternal or neonatal syphilis testing).

\* \* \*

**AUTHORITY NOTE:** The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(1)(2) and (10).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019).

##### **§105. Reportable Diseases and Conditions**

##### **[formerly paragraph 2:003]**

A. It is hereby made the duty of every physician practicing medicine in the state of Louisiana to report to the state health officer, according to the requirements of this Section and utilizing the appropriate method(s) of reporting required under Subsection E of this Section, any case or suspected case of reportable disease or condition which he or

she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset, and the pregnancy status of the patient (if the pregnancy status is known and if it is clinically relevant to the disease or condition being reported). Reports of occupational disease/injury shall state contact information of the reporting person as well as the patient's name, contact information, age (or date of birth), sex, race/ethnicity, usual residence, occupation, employer information, the nature of the disease or injury, and the date of diagnosis.

B. - D.1.a. ...

- i. *Acinetobacter* spp., carbapenem-resistant;
- ii. acute flaccid paralysis, including acute flaccid myelitis;
- iii. amoeba (free living) infection (including *Acanthamoeba*, *Naegleria*, *Balamuthia* and others);
- iv. anthrax;
- v. avian or novel strain influenza A (initial detection);
- vi. botulism;
- vii. brucellosis;
- viii. *Candida auris*, as well as common misidentifications of *C. auris* (e.g., *C. haemulonii*, *C. duobushaemulonii*, *C. famata*, *C. sake*, *C. lusitaniae*, *C. parapsilosis*, *C. catenulata*, *C. guilliermondii*, and *Rhodotorula glutinis*);
- ix. cholera;
- x. *Clostridium perfringens* food-borne illness;
- xi. diphtheria;
- xii. *Enterobacteriaceae*, carbapenem-resistant;
- xiii. fish or shellfish poisoning (domoic acid poisoning, neurotoxic shellfish poisoning, ciguatera, paralytic shellfish poisoning, scombroid);
- xiv. food-borne illness;
- xv. glanders (*Burkholderia mallei*);
- xvi. *Haemophilus influenzae* (invasive infection);
- xvii. influenza-associated mortality;
- xviii. measles (rubeola, imported or indigenous);
- xix. melioidosis (*Burkholderia pseudomallei*);
- xx. *Neisseria meningitidis* (invasive infection);
- xxi. outbreaks of any infectious diseases;
- xxii. pertussis;
- xxiii. plague (*Yersinia pestis*);
- xxiv. poliomyelitis (paralytic and non-paralytic);
- xxv. *Pseudomonas aeruginosa*, carbapenem-resistant;
- xxvi. Q fever (*Coxiella burnetii*);
- xxvii. rabies (animal and human);
- xxviii. ricin poisoning;
- xxix. rubella (congenital syndrome);
- xxx. rubella (German measles);
- xxxi. severe acute respiratory syndrome-associated coronavirus (SARS-CoV);
- xxxii. *Staphylococcus aureus*, vancomycin intermediate or resistant (VISA.VRSA);
- xxxiii. staphylococcal enterotoxin B (SEB) pulmonary poisoning;
- xxxiv. smallpox;

- xxxv. tularemia (*Francisella tularensis*);
- xxxvi. viral hemorrhagic fever (Ebola, Lassa, Marburg, Crimean Congo, etc.); and
- xxxvii. yellow fever.

2. - 2.a. ...

- i. anaplasmosis;
- ii. arthropod-borne viral infections (including West Nile, Dengue, St. Louis, California, Eastern Equine, Western Equine, Chikungunya, Usutu, Zika, and others);
- iii. aseptic meningitis;
- iv. babesiosis;
- v. Chagas disease;
- vi. chancroid;
- vii. cryptosporidiosis;
- viii. cyclosporiasis;
- ix. *Escherichia coli*, Shiga-toxin producing (STEC), including *E. coli* O157:H7;
- x. granuloma inguinale;
- xi. hantavirus (infection or pulmonary syndrome);
- xii. hemolytic-uremic syndrome;
- xiii. hepatitis A (acute illness);
- xiv. hepatitis B (acute illness and carriage in pregnancy);
- xv. hepatitis B (perinatal infection);
- xvi. hepatitis C (acute illness);
- xvii. hepatitis C (perinatal infection);
- xviii. hepatitis E;
- xix. herpes (neonatal);
- xx. human immunodeficiency virus [(HIV), infection in pregnancy]<sup>2,6</sup>;
- xxi. human immunodeficiency virus [(HIV), perinatal exposure]<sup>2,6</sup>;
- xxii. legionellosis;
- xxiii. listeriosis;
- xxiv. malaria;
- xxv. mumps;
- xxvi. salmonellosis
- xxvii. shigellosis;
- xxviii. syphilis<sup>1</sup>
- xxix. syphilis [(*Treponema pallidum*), infection in pregnancy]<sup>1,6</sup>
- xxx. syphilis [(*Treponema pallidum*), perinatal exposure]<sup>1,6</sup>;
- xxxi. tetanus;
- xxxii. tuberculosis<sup>3</sup> due to *Mycobacterium tuberculosis*, *bovis* or *africanum*;
- xxxiii. typhoid fever;
- xxxiv. *Vibrio* infections (other than cholera); and
- xxxv. Zika virus-associated birth defects.

3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days

- a. - a.i. ...
- ii. aspergillosis;
- iii. - vii. ...
- viii. ehrlichiosis (human granulocytic, human monocytic, *Ehrlichia chaffeensis* and *ewingii*);
- ix. *Enterococcus*, vancomycin resistant [(VRE), invasive disease];
- x. giardiasis;
- xi. gonorrhea<sup>1</sup> (genital, oral, ophthalmic, pelvic inflammatory disease, rectal);

- xii. Guillain-Barré syndrome;
- xiii. Hansen's disease (leprosy);
- xiv. hepatitis C (infection, other than as in Class B)<sup>2</sup>;

- xv. histoplasmosis;
- xvi. human immunodeficiency virus [(HIV) infection, other than as in class B]<sup>2</sup>;
- xvii. human T lymphocyte virus (HTLV I and II) infection;
- xviii. leptospirosis;
- xix. Lyme disease;
- xx. lymphogranuloma venereum<sup>1</sup>;
- xxi. meningitis, eosinophilic (including those due to *Angiostrongylus* infection);
- xxii. Nipah virus infection;
- xxiii. non-gonococcal urethritis;
- xxiv. nontuberculous mycobacteria;
- xxv. ophthalmia neonatorum;
- xxvi. psittacosis;
- xxvii. spotted fever rickettsioses [*Rickettsia* species including Rocky Mountain spotted fever (RMSF)];
- xxviii. staphylococcal toxic shock syndrome;
- xxix. *Staphylococcus aureus*, methicillin/oxacillin-resistant [(MRSA), invasive infection];
- xxx. streptococcal disease, group A (invasive disease);
- xxxi. streptococcal disease, group B (invasive disease);
- xxxii. streptococcal toxic shock syndrome;
- xxxiii. *Streptococcus pneumoniae* invasive disease;
- xxxiv. transmissible spongiform encephalopathies (Creutzfeldt-Jakob disease and variants);
- xxxv. trichinosis;
- xxxvi. varicella (chickenpox); and;
- xxxvii. yersiniosis.

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

- a. - a.i. ...
- ii. carbon monoxide exposure and/or poisoning<sup>5</sup>;
- iii. - vii. ...
- viii. lead exposure and/or poisoning (all ages)<sup>5</sup>;
- ix. pesticide-related illness or injury (all ages)<sup>5</sup>;
- x. ...
- xi. pneumoconiosis (asbestosis, berylliosis, silicosis, byssinosis, etc.)<sup>5</sup>;
- xii. radiation exposure, over normal limits<sup>5</sup>;
- xiii. - xviii. ...

5. Class E Reportable Occupational Diseases or Conditions Shall Require Reporting within 10 Business Days<sup>5</sup>

a. Class E diseases or conditions shall include any occupationally-related diseases or conditions of significant public health concern. This includes cases where the work environment is suspected to be the cause of an illness or injury or cases where the work environment is thought to be the cause of an illness exacerbation. Class E diseases or conditions shall be reported to the Office of Public Health, Section of Environmental Epidemiology and Toxicology, Occupational Health and Injury Surveillance Program, within 10 business days after existence of the case, suspected case, or positive test result is known.

E. - E.1. ...

2. <sup>2</sup>Report to the Louisiana STD/HIV Program. Visit [www.hiv.dhh.louisiana.gov](http://www.hiv.dhh.louisiana.gov) or call (504) 568-7474 for regional contact information.

3. - 4. ...

5. <sup>5</sup>Report to the Section of Environmental Epidemiology and Toxicology, Occupational Health and Injury Surveillance Program, [www.seet.dhh.louisiana.gov](http://www.seet.dhh.louisiana.gov) or call (504) 568-8150, toll free at (888) 293-7020, or by fax at (504) 568-8149.

6. <sup>6</sup>Report to the Louisiana STD/HIV Program on HIV/Syphilis during Pregnancy Reporting Form. Visit [www.hiv.ldh.louisiana.gov](http://www.hiv.ldh.louisiana.gov) or by phone at (504) 568-7474.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(1)(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), amended LR 39:1053 (April 2013), LR 41:2653 (December 2015), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019).

#### **§107. Laboratory and Healthcare Facility Reporting Requirements (formerly §113)**

A. The director of every laboratory and the director of an applicable healthcare facility whether public, private, hospital or other, within or out of the state shall report to the state health officer the results of all tests that are in any way clinically relevant, suggestive or indicative of an individual having active disease, past or present exposure to, past or present contact with and/or past or present association with any of the disease/conditions listed in LAC 51 (Public Health—Sanitary Code), Part II, Chapter 1, §105. The results of the tests to be reported to the state health officer do not have to be conducted for diagnostic reasons, nor do the results have to be diagnostic or confirmatory. The report shall be received in a timely manner consistent with the requirements of the diseases/conditions by class for the diseases/conditions described in §105 of this Chapter and shall state the name, date of birth, sex, race, usual residence, pregnancy status of the individual (if the pregnancy status is known and if it is clinically relevant to the disease or condition being reported), specimen identification code/ID and test results of the tested individual as well as the name of the physician or person submitting the specimen. Contact information for the laboratory or an applicable healthcare facility performing the test(s) shall be provided. Laboratories or an applicable healthcare facility shall not defer their public health reporting responsibilities to any other authorities within the institutions they serve. In addition, laboratories or an applicable healthcare facility performing tests on specimens received from other laboratories or an applicable healthcare facility shall report to the state health officer all results as prescribed above plus the contact information for the facility/laboratory or an applicable healthcare facility where the specimen originated. Moreover, no considerations, evaluations or concerns, regarding any test technology or test result by institutions and/or organizations whether federal, state or otherwise (e.g., FDA, CMS-CLIA, etc.) which may be overseeing, approving, evaluating or licensing laboratory testing, shall represent an

*a priori* rationale for withholding laboratory reports from the state health officer.

B. - B.4. ...

5. hepatitis C (past or present infection), including genotype where available;

6. - 9. ...

C. A reference culture or culture-independent diagnostic test (CIDT) specimen is required to be sent to the Office of Public Health laboratory, or a specialized laboratory as indicated below, for the following microorganisms within five business days of the final identification of the microorganism:

1. *Acinetobacter* spp., pan-resistant; consult with the OPH's Infectious Disease Epidemiology for submission to the CDC's Antibiotic Resistance Laboratory Network (ARLN);

2. *Bacillus anthracis* (confirmed or suspected);

3. *Bordetella pertussis*;

4. *Brucella* spp.

5. *Burkholderia mallei*;

6. *Burkholderia pseudomallei*;

7. *Campylobacter* spp.;

8. *Candida auris* submitted to the CDC's ARLN; consult with the OPH's Infectious Disease Epidemiology for common misidentifications of *C. auris* (e.g., *C. haemulonii*, *C. duobushaemulonii*, *C. famata*, *C. sake*, *C. lusitanae*, *C. parapsilosis*, *C. catenulata*, *C. guilliermondii*, and *Rhodotorula glutinis*);

9. *Corynebacterium diphtheriae*;

10. *E. coli* O157:H7 or *E. coli* Shiga toxin producing;

11. Enterobacteriaceae, carbapenem-resistant (excluding *Klebsiella pneumoniae*, *K. oxytoca*, *E. coli*, and *Enterobacter* spp.); consult with OPH's Infectious Disease Epidemiology for submission to the CDC ARLN;

12. *Francisella* spp.;

13. *Klebsiella pneumoniae*, *K. oxytoca*, *E. coli*, and *Enterobacter* spp., carbapenem-resistant;

14. *Listeria* spp.;

15. *Mycobacterium tuberculosis*, *bovis* or *africanum*;

16. *Plesiomonas* spp.;

17. *Pseudomonas aeruginosa*, carbapenem-resistant;

18. *Salmonella* spp.;

19. *Shigella* spp.;

20. *Vibrio* spp.;

21. *Yersinia enterocolitica*; and

22. *Yersinia pestis*.

D. A reference culture or culture-independent diagnostic test (CIDT) specimen is required to be sent to the Office of Public Health laboratory for the following microorganisms if the original culture was from a sterile site (e.g., blood, spinal fluid, other internal fluid, tissue, etc.). Such reference culture shall be sent to the Office of Public Health laboratory within five business days of the final identification of the microorganism:

D.1. - E. ...

F. Electronic reporting by a laboratory/facility shall include any results, negative or positive, for all components of testing indicative of the following conditions:

1. hepatitis C virus;

2. human immunodeficiency virus (HIV), including nucleotide sequences; and

3. syphilis.

G. Laboratories and applicable healthcare facilities are encouraged to report results electronically using Health Level Seven (HL7)-compliant message structure and appropriate standard Logical Observation Identifiers Names and Codes (LOINC) terminology designating the test(s) performed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:1054 (April 2013), LR 41:2655 (December 2015), amended by Department of Health, Office of Public Health, LR:amended 45:669 (May 2019).

## **Chapter 7. Public Health Immunization Requirements**

### **§701. Immunization Schedule [formerly paragraph 2:025]**

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;

2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;

3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;

4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;

5. vaccines which contain varicella antigen, including varicella and combinations which include this component.

6. vaccines which contain meningococcal antigen and combinations which include this component.

B. A one-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 1450 Poydras Street, Suite 1938, New Orleans, LA 70112 or by telephone (504)568-2600.

C. [formerly paragraph 2:025-1] Any child 18 years or under, admitted to any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Louisiana immunization schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent

from parents. The operator of any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall report to the state health officer through the health unit of the parish or municipality where such facility is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in an elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility, the operator of said facility shall comply with outbreak control procedures as directed by the state health officer.

D. [formerly paragraph 2:025-2] On or before October 1 of each year, the operator of each elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility enrolling or housing any child 18 years or under, inclusive but not limited to these listed facilities shall submit a preliminary immunization status report of all children enrolled or housed as of that date. This compliance report shall be submitted utilizing the official Louisiana immunization information registry system (frequently referred to as LINKS) for reporting and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the report. After review of the report(s) by the state health officer or his or her designee, the elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility operator shall notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant, with the immunization requirement of §701.A and C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. Also see R.S. 17:170, R.S. 22:1030, R.S. 40:31.15 and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012) amended by the Department of Health, Office of Public Health, amended LR 45:670 (May 2019).

## **Part III. The Control of Rabies and Other Zoonotic Diseases**

### **Chapter 1. Anti-Rabies Vaccination Requirements for Dogs and Cats**

#### **§103. Mandatory Vaccinations of Dogs, Cats, and Ferrets**

##### **[formerly paragraph 3:002]**

A. No person shall own, keep or have in his custody a dog, cat, or ferret over 3 months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog, cat, or ferret shall cause said animal to be vaccinated initially with a series of two vaccinations, the first to be administered at 3 months of age, the second to be administered one year after the initial vaccination. Dogs, cats, or ferrets initially vaccinated later than 3 months of age shall also be administered a series of two vaccines, the second vaccine to be given one year after the initial

vaccination. Thereafter, the interval between revaccinations shall conform to the *Compendium of Animal Rabies Prevention and Control*, 2016 Edition, Part II, Section B and Appendix 1: Rabies Vaccines Licensed and Marketed in the United States, 2016, which is published by the National Association of State Public Health Veterinarians, Inc. Vaccine licensing and labeling, including duration of immunity, is authorized by the Center for Veterinary Biologics at the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) and those decisions are based on testing conducted by the vaccine manufacturer. The results of testing are presented to USDA during the registration process.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(a), R.S. 40:5(A) (2)(10)(11) and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007), LR 41:2657 (December 2015), amended by the Department of Health, Office of Public Health, amended LR:45:670 9May 2019).

#### **§105. Human Exposure to Domestic Animal Bites [formerly paragraph 3:003]**

A. When any dog, cat, or ferret bites a human being, said animal shall be confined (as described in §111) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health for examination for rabies. During the observation period a rabies vaccine should not be administered to the animal to avoid confusing signs of rabies with possible side effects of vaccine administration. Any dog, cat, or ferret that develops any signs during the 10 day observation period shall be reported immediately to the local health authority and, provided such signs are compatible with rabies as determined by a licensed veterinarian or the official state public health veterinarian, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health for examination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007), amended by the Department of Health, Office of Public Health, amended LR:45:671 (May 2019).

#### **§107. Domestic Animals Bitten by Rabid Animals [formerly paragraph 3:004]**

A. When bitten by a rabid animal, unvaccinated dogs, cats, or ferrets shall be destroyed immediately unless the owner is unwilling to have this done, in which case, the unvaccinated animal shall be confined (as described in §111) for four months for dogs and cats and six months for ferrets being released. A rabies vaccine shall be administered at the time of entry into quarantine (confinement) to bring the animal up to current rabies vaccination status. Administration of the vaccine shall be done as soon as possible. It is recommended that the period from exposure to vaccination not exceed 96 hours. If vaccination is delayed the official state public health veterinarian may consider

increasing the quarantine period for dogs and cats from four to six months. Dogs, cats, or ferrets that are currently vaccinated shall be re-vaccinated immediately and confined (as described in §111) for 45 days.

1. Overdue dogs and cats. Dogs and cats that are overdue for a booster vaccination and that have appropriate documentation of having received a USDA-licensed rabies vaccine at least once previously shall immediately receive a booster vaccination and shall be kept under the owner's control and observed for 45 days. Dogs and cats that are overdue for a booster and without appropriate documentation of having received a USDA-licensed rabies vaccine at least once previously shall be:

a. treated as unvaccinated, immediately given a booster vaccination and placed in strict quarantine; or

b. the official state public health veterinarian may consider use of prospective serological monitoring (PSM) of the animal to document prior vaccination by providing evidence of an anamnestic response to booster vaccination. If the official state public health veterinarian authorizes PSM, the animal shall be strictly quarantined while PSM is performed. If the official state public health veterinarian confirms that PSM provides evidence of an anamnestic response, the period of strict quarantine may be ended, and the animal may be kept under the owner's control and observed for 45 days. If there is inadequate evidence of an anamnestic response, the animal is considered to have never been vaccinated and shall be placed in strict quarantine for 4 to 6 months.

2. Overdue ferrets. Ferrets that are overdue for a booster shall be considered unvaccinated and shall be immediately vaccinated for rabies and strictly quarantined for 6 months.

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:651 (April 2007), amended by the Department of Health, Office of Public Health, amended LR:45:671 (May 2019).

#### **§111. Confinement or Quarantine of Animals [formerly paragraph 3:007]**

A. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002), amended LR 33:651 (April 2007), amended by the Department of Health, Office of Public Health, amended LR:45:671 (May 2019).

Jimmy Guidry, MD  
State Health Officer  
and  
Rebekah E. Gee, MD, MPH  
Secretary

1905#036



## RULE

### Department of Public Safety and Corrections Corrections Services

#### Administrative Remedy Procedure (LAC 22:I.325)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 325, Administrative Remedy Procedure. This Rule is hereby adopted on the day of promulgation.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part I. Corrections

#### Chapter 3. Adult Services

#### §325. Administrative Remedy Procedure

A. Purpose—to constitute the department's "administrative remedy procedure" for offenders as a regulation.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, and sheriffs or administrators of local jail facilities. Each unit head is responsible for ensuring that all unit written policies and procedures are in place to comply with the provisions of this regulation. Furthermore, the provisions of this regulation as amended are applicable retroactively, and thus apply to any policy, condition, action, or request for administrative remedy filed prior to the date.

C. Policy. It is the secretary's policy that all offenders and employees have reasonable access to and comply with the department's "administrative remedy procedure" through which an offender may seek formal review of a complaint. Offenders housed in local jail facilities shall also be afforded reasonable access to a grievance remedy procedure. Revisions shall be accomplished through this regulation under the signature of the secretary.

#### D. Administrative Remedy Procedure—Purpose

1. On September 18, 1985, the Department of Public Safety and Corrections installed in all of its adult institutions a formal grievance mechanism for use by all offenders committed to the custody of the department. The process bears the name Administrative Remedy Procedure (ARP). Offenders are required to use and complete all steps in the procedure properly, including obeying all rules of the procedural process, before they can proceed with a suit in federal and state courts. No action shall be brought in a federal or state court with respect to prison conditions by any offender confined in any jail or correctional facility until all available administrative remedies are properly exhausted.

2. Corrections Services has established the administrative remedy procedure through which an offender may seek formal review of a complaint which relates to any aspect of his incarceration if less formal methods have not resolved the matter. Such complaints and grievances include, but are not limited to any and all claims seeking monetary, injunctive, declaratory or any other form of relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies

or statutes, including grievances such as discrimination based on disability, offender requests for accommodations under the Americans with Disabilities Act and for complaints of sexual abuse under the Prison Rape Elimination Act.

3. Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies.

#### E. Definitions

*ARP Screening Officer*—a staff member, designated by the warden, whose responsibility is to coordinate and facilitate the administrative remedy procedure process.

*Days*—calendar days.

*Emergency Grievance (or Request for Emergency Administrative Remedy)*—a matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury or cause other serious and irreparable harm to the offender.

*Exhaustion*—proper exhaustion only occurs when an offender files a timely and procedurally proper request for remedy, which after it is accepted, is addressed on the merits at both the first and second step. A request for administrative remedy which is rejected is not considered properly exhausted, as such request has not been addressed on its merits at either of the two steps.

*Grievance (or Request for Administrative Remedy)*—a written complaint by an offender on the offender's own behalf regarding anything relating to prison conditions, including but not limited to a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, ~~or~~ an incident occurring within an institution, or discrimination based on disability.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders.

#### F. General Policy

1. Offenders may request administrative remedies to situations arising from policies, conditions or events within the institution that affect them personally, including discrimination based on disability.

2. All offenders, regardless of their classification, impairment or disability, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the warden to provide appropriate assistance for offenders with literacy deficiencies or language barriers (including hearing and visual impairments).

3. There are procedures already in place within all DPS and C institutions which are specifically and expressly incorporated into and made a part of this administrative remedy procedure. These procedures shall constitute the administrative remedies for disciplinary matters and lost property claims.

#### a. General Procedures

##### i. Notification of Procedures

(a). Offenders must be made aware of the system by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers.

(b). The procedures shall be posted in writing in areas readily accessible to all offenders.

(c). All offenders may request information about or assistance in using the procedure from their classification

officer or from a counsel substitute who services their living area.

ii. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the warden or anyone else in the department. All forms of communication to the warden will be handled, investigated and responded to as the warden deems appropriate.

iii. The requirements set forth in this document for acceptance into the administrative remedy procedure are solely to assure that incidents which may give rise to a cause of action will be handled through this two step system of review.

iv. The following matters shall not be appealable through this administrative remedy procedure:

(a). court decisions and pending criminal matters over which the department has no control or jurisdiction;

(b). Board of Pardons and Parole decisions (under Louisiana law, these decisions are discretionary and may not be challenged);

(c). sex offender assessment panel recommendations;

(d). lockdown review board decisions (offenders are furnished written reasons at the time this decision is made as to why they are not being released from lockdown, if that is the case. The board's decision may not be challenged. However, a request for administrative remedy on lockdown review board hearings can be made in the following instances):

(i). that no reasons were given for the decision of the board;

(ii). that a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20 day grace period attached hereto, due to administrative scheduling problems of the board; therefore, a claim based on this ground will not be valid until 110 days have passed and no hearing has been held;

(e). warden's decision regarding restoration of good time.

v. A request for accommodation under the Americans with Disabilities Act made using the administrative remedy procedure process and the resolution of the offender's request shall be deemed to be exhaustion of the administrative procedure. The initiation of the process and deadlines and time limits stated in the administrative remedy procedure remain applicable.

vi. If an offender registers a complaint against a staff member, that employee shall not be involved in the decision making process on the request for remedy. However, this shall not prevent the employee from participating at the step one level, since this employee may be the best source from which to begin collecting information on an alleged incident.

vii. At each stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached along with simple directions for obtaining further review.

viii. Prior to filing a grievance in federal or state court, unless specifically excepted by law, the offender must properly exhaust all available administrative remedies. Only after the request for administrative remedy is accepted can

proper exhaustion occur. Exhaustion can only occur when a second step response on the merits has been issued.

ix. If an offender submits multiple requests during the review of a previous request, they will be logged and set aside for handling at such time as the request currently in the system has been exhausted at the second step or until time limits to proceed from the first step to the second step have lapsed. The warden may determine whether a letter of instruction to the offender is in order.

x. In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests shall be logged separately.

xi. When an offender has filed a request at one institution and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending institution, the sending institution shall complete the processing through the first step response (form B-05-005-ARP-2). The warden of the receiving institution shall assist in communication with the offender.

xii. If an offender is discharged before the review of an issue is completed that affects the offender after discharge, or if he files a request after discharge on an issue that affects him after discharge, the institution shall complete the processing and shall notify the offender at his last known address. All other requests shall be considered moot when the offender discharges and the process shall not be completed.

xiii. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.

(a). Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

(b). The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined accordingly.

#### b. Maintenance of Records

i. Administrative remedy procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by R.S. 15:574.12.

ii. All reports, investigations, etc., other than the offender's original letter and responses, are prepared in anticipation of litigation and to become part of the attorney's work product for the attorney handling any anticipated future litigation of this matter; therefore these documents are confidential and not subject to discovery or the Public Records Act outlined in R.S. 44:1, et seq.

iii. Records shall be maintained as follows.

(a). An electronic log shall document the nature of each request, all relevant dates and disposition at each step.

(i). Each institution shall submit reports on administrative remedy procedure activity.

(ii). Cross references and notations shall be made on other appropriate databases such as ADA and PREA as may be warranted.

(b). Individual requests and disposition, and all responses and pertinent documents shall be kept on file at the institution or at headquarters.

(c). Records shall be kept four years following final disposition of the request.

c. Annual Review. The warden shall annually solicit comments and suggestions on the processing, the efficiency and the credibility of the administrative remedy procedure from offenders and staff. A report with the results of such review shall be provided to the chief of operations/office of adult services no later than January 31 of each year.

#### G. Initiating a Formal Grievance

1. Offenders are encouraged to resolve their problems within the institution informally, before initiating the formal process. Informal resolution is accomplished through communication with appropriate staff members. If an offender is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process. In order to ensure their right to use the formal procedure, a request to the warden shall be made in writing within a 90 day period after an incident has occurred. This requirement may be waived when circumstances warrant. The warden or designee shall use reasonable judgment in such matters. There is no time limit imposed for grievances alleging sexual abuse.

##### a. Initiating a Formal Grievance

i. The offender commences the process by completing a request for administrative remedy (form B-05-005-ARP-1) or writing a letter to the warden, in which he briefly sets out the basis for his claim, and the relief sought. For purposes of this process, a letter is:

(a). any form of written communication which contains the phrase: "This is a request for administrative remedy" or "ARP;" or

(b). request for administrative remedy (form B-05-005-ARP-1) at those institutions that wish to furnish forms for commencement of this process.

ii. The institution is not required to be responsible for furnishing the offender with copies of his letter of complaint. It is the offender's responsibility for obtaining or duplicating a copy of his letter of complaint through established institutional procedures and for retaining the copy for his own records. The form or original letter will become a part of the administrative record and will not be returned to the offender.

iii. Original letters or requests to the warden should be as brief as possible. Offenders should present as many facts as possible to answer all questions (who, what, when, where and how) concerning the incident. If a request is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The response deadline for a request for clarity or summarization begins on the date the resubmission is received by the ARP screening officer.

iv. No request for administrative remedy shall be denied acceptance into the administrative remedy procedure because it is or is not on a form; however, no letter as set forth above shall be accepted into the process unless it

contains the phrase, "This is a request for administrative remedy or ARP."

b. Withdrawing a Formal Grievance. After filing a formal request for administrative remedy, the offender may request in writing that the warden or secretary cancel the administrative remedy request at any time and for any reason. A withdrawn request cannot constitute a properly exhausted administrative remedy.

#### H. Emergency or Sensitive Issues

1. In instances where the offender's request is of an emergency or sensitive issue as defined below, the following procedures will apply.

a. If an offender feels he is subjected to emergency conditions, he must send an emergency request to the shift supervisor. The shift supervisor shall immediately review the request to determine the appropriate corrective action to be taken. All emergency requests shall be documented on an unusual occurrence report (form C-05-001-W-1) by the appropriate staff member.

i. Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly. Particularly, but not exclusively, matters relating to administrative transfers and time computation disputes are not to be treated as emergencies for purposes of this procedure, but shall be expeditiously handled by the shift supervisor, when appropriate.

b. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the secretary through the chief of operations/office of adult services (second step response-form B-05-005-ARP-3). The offender must explain, in writing, his reason for not filing the complaint at the institution.

i. If the chief of operations/office of adult services agrees that the complaint is sensitive, he shall accept and respond to the complaint at the second step. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint to the warden's office. The offender shall then have five days from the date the rejection memo is received in the warden's office to submit his request through regular channels (beginning with the first step if his complaint is acceptable for processing in the administrative remedy procedure).

c. If an emergency complaint alleges that the offender is subject to a substantial risk of imminent sexual abuse, the grievance shall be sent immediately to the unit's PREA compliance manager who shall then immediately notify the unit's PREA investigator. The unit PREA compliance manager shall provide an initial response within 48 hours of receipt of the grievance outlining any corrective actions warranted and shall issue a first step response within five days. If the offender has been secured and is no longer in danger or imminent harm, the grievance procedure shall proceed as outlined within the deadlines and time limits stated in the administrative remedy procedure.

#### I. Grievance Screening

1. The ARP screening officer shall screen all requests prior to assignment to the first step. The screening process should not unreasonably restrain the offender's opportunity to seek a remedy.

a. The ARP screening officer shall provide notice to the offender that his request is either:

- i. being accepted and will be processed, or
- ii. being rejected and will not be processed until the noted deficiency is corrected.

b. Accepted Requests

i. If the request is accepted, the warden, or designee, will assign a staff member to conduct further fact-finding and/or information gathering prior to rendering his response.

ii. Once an offender's request is accepted into the procedure, he must use the manila envelope that is furnished to him with the first step response (form B-05-005-ARP-2) to continue in the procedure. The flaps on the envelope may be tucked into the envelope for mailing to the facility's ARP screening officer.

c. Rejected Requests

i. If a request is rejected, it must be for one of the following reasons:

(a). This matter is not appealable through this process, such as:

- (i). court decisions;
- (ii). Board of Pardons and Committee on Parole decisions;
- (iii). sex offender assessment panel recommendations;
- (iv). lockdown review board (refer to Subsection F, General Policy).

(b). There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

- (i). disciplinary matters;
  - (ii). lost property claims.
- (c). It is a duplicate request.
- (d). The complaint concerns an action not yet taken or a decision which has not yet been made.
- (e). The offender has requested a remedy for another offender (unless the request is a third party report of an allegation of sexual abuse).

(f). The request was not written by the offender and a waiver was not approved. The only exception is if the offender has alleged sexual abuse. In this instance, the offender:

- (i). may seek help from a third party to file the initial grievance;
- (ii). must attach written authorization for the named third party to submit the grievance on the offender's behalf; and
- (iii). must personally pursue any remaining subsequent steps in the process, including participation in any resulting investigation.

(g). The offender has requested a remedy for more than one incident (a multiple complaint) unless the request is a report of an allegation of sexual abuse.

(h). Established rules and procedures were not followed.

(i). There has been a time lapse of more than 90 days between the event and the initial request, unless waived by the warden. Some exceptions may apply such as time computation issues, ADA issues, PREA issues, and on-going medical issues.

(j). The offender does not request some type of remedy unless the request pertains to an allegation of sexual abuse, in which case stopping the abuse is the implied request for remedy.

(k). The offender's request is unclear or the volume of attached material is too great.

(l). The offender requests a religious exemption via this administrative remedy procedure prior to exhausting the religious exemption process.

ii. The offender shall be provided written notification of the grounds upon which the rejection is based.

iii. A rejected request is not appealable to the second step. If a request is rejected for any of the reasons listed above, the offender must correct the noted deficiencies and resubmit the request to the ARP screening officer.

iv. The offender has not properly exhausted administrative remedies if his request is rejected for any of the reasons listed above.

J. Grievance Processing

1. The following process and time limits shall be adhered to in processing any ARP request.

a. First Step (time limit 40 days/5 days for PREA)

i. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate step response and returning it to the offender.

ii. The warden shall respond to the offender within 40 days/5 days for PREA from the date the request is received at the first step utilizing the first step response (form B-05-005-ARP-2).

iii. If the offender is not satisfied with the decision rendered at the first step, he should pursue his grievance to the secretary, through the chief of operations/office of adult services via the second step.

iv. For offenders wishing to continue to the second step, sufficient space will be allowed on the response to give a reason for requesting review at the next level. It is not necessary to rewrite the original letter of request as it will be available to all reviewers at each step of the process.

b. Second Step (time limit 45 days)

i. An offender who is dissatisfied with the first step response (form B-05-005-ARP-2) may appeal to the secretary of the Department of Public Safety and Corrections by so indicating that he is not satisfied in the appropriate space on the response form and forwarding it to the ARP screening officer within five days of receipt of the decision.

ii. A final decision will be made by the secretary or designee and the offender shall be sent a response within 45 days from the date the request is received at the second step utilizing the second step response (form B-05-005-ARP-3).

iii. A copy of the secretary's decision shall be sent to the warden.

iv. If an offender is not satisfied with the second step response (form B-05-005-ARP-3), he may file suit in district court. The offender must furnish the administrative remedy procedure number on the court documents.

c. Deadlines and Time Limits. No more than 90 days from the initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an

extension, expiration of response time limits shall entitle the offender to move on to the next step in the process.

i. An offender may request an extension in writing of up to five days in which to file at any stage of the process.

(a). This request shall be made to the ARP screening officer for an extension to initiate a request; to the warden for the first step response (form B-05-005-ARP-2) and to the secretary through the chief of operations/office of adult services for the second step response (form B-05-005-ARP-3).

(b). The offender must certify valid reasons for the delay, which must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each step, along with the substantive issue of the complaint.

ii. The warden may request permission for an extension of time not more than five days from the chief of operations/office of adult services for the step one review/response.

(a). The offender must be notified in writing of such an extension.

(b). Cumulative extensions of time shall not exceed 25 days unless the grievance concerns sexual abuse, in which case an extension of time up to 70 days may be made.

(c). If the extension is approved, written communication shall be sent to the offender of the extension and a date by which the decision shall be rendered. Reasons for the extension of time for unusual circumstances shall be maintained in the administrative record.

#### K. Monetary Damages

1. Based upon credible facts within a grievance or complaint filed by an offender, the Department of Public Safety and Corrections may determine that such an offender is entitled to monetary damages where such damages are deemed by the department as appropriate to render a fair and just remedy.

a. Upon a determination that monetary damages should be awarded, the only remaining question is quantum or the dollar amount of the monetary damages to be awarded.

b. The determination of quantum shall be made after a formal review by the case contractor for the Office of Risk Management within the Division of Administration. The determination reached by the case contractor shall be submitted to the Office of Risk Management and the Department of Public Safety and Corrections for a final decision.

c. If a settlement is reached, a copy of the signed release shall be given to the warden on that same date.

#### L. Lost Property Claims

1. The purpose of this section is to establish a uniform procedure for handling lost property claims filed by offenders in the custody of the Department of Public Safety and Corrections. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this procedure and for advising offenders and affected employees of its contents.

a. When an offender suffers a loss of personal property, he may submit a lost personal property claim (form B-05-005-A) to the warden or designee. The claim shall

include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item and any proof of ownership or value of the property available to the offender. All claims for lost personal property must be submitted to the warden or designee within 10 days of discovery of the loss.

i. Under no circumstances will an offender be compensated for an unsubstantiated loss, or for a loss which results from the offender's own acts or for any loss resulting from bartering, trading, selling to or gambling with other offenders.

b. The warden or designee shall assign an employee to investigate the claim. The investigative officer shall investigate the claim fully and will submit his report and recommendations to the warden or designee.

c. If a loss of an offender's personal property occurs through the negligence of the institution and/or its employees, the offender's claim may be processed in accordance with the following procedures.

##### i. Monetary:

(a). the warden or designee shall recommend a reasonable value for the lost personal property as described on the lost personal property claim (form B-05-005-A). The state assumes no liability for any lost personal clothing;

(b). a lost personal property claim response (form B-05-005-B) and agreement (form B-05-005-C) shall be completed and submitted to the offender for his signature; and

(c). the claim shall be submitted to the chief of operations/office of adult services for review and final approval.

##### ii. Non-monetary:

(a). the offender is entitled only to state issue where state issued items are available;

(b). the warden or designee shall review the claim and determine whether or not the institution is responsible;

(c). a lost personal property claim response (form B-05-005-B) shall be completed and submitted to the offender for his signature;

(d). an agreement (form B-05-005-C) shall be completed and submitted to the offender for his signature when state issue replacement has been offered.

d. If the warden or designee determines that the institution and/or its employees are not responsible for the offender's loss of property, the claim shall be denied, and a lost personal property claim response (form B-05-005-B) shall be submitted to the offender indicating the reason. If the offender is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on the lost personal property claim response (form B-05-005-B) and submitting it to the ARP screening officer within five days of receipt. The screening officer shall provide the offender with an acknowledgment of receipt and date forwarded to the chief of operations/office of adult services. A copy of the offender's original lost personal property claim (form B-05-005-A) and lost personal property claim response (form B-05-005-B) and other relevant documentation shall be attached.

M. DPS and C Offenders Housed in Non-DPS and C Facilities

1. Offenders shall have reasonable access to a grievance remedy procedure that includes at least two levels of review if necessary.

a. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to time computation, requests for transfer, or transitional work program requests should submit his grievance request directly to DPS&C Headquarters Internal Affairs. A representative from Headquarters Internal Affairs shall respond to the offender within 90 days. If the offender is not satisfied with the response, he may file suit with the 19<sup>th</sup> Judicial District Court.

b. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to conditions of confinement, personal injuries, medical complaints, the classification process, challenges to rules, regulations, or policies, or any other complaint not outlined above in section a. should submit his grievance request to the jail administrator of the facility in which he is housed. If the offender is not satisfied with the response, he may file suit with the district court of the parish in which the facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 28:857 (April 2002), amended LR 28:1993 (September 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 37:3275 (November 2011), LR 39:2779 (October 2013), LR 45:672 (May 2019).

James M. Le Blanc  
Secretary

1905#037

## **RULE**

### **Department of Public Safety and Corrections Corrections Services**

#### **Lost Property Claims (LAC 22:I.369)**

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby repeals LAC 22:I.369, Lost Property Claims in its entirety. This repeal is a technical adjustment as the information is promulgated in §325 and will remain intact and enforced as a department regulation. This Rule is hereby adopted on the day of promulgation.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part I. Corrections**

#### **Chapter 3. Adult Services**

#### **§369. Lost Property Claims**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 19:657 (May 1993), amended LR 28:856 (April 2002), repealed by the

Department of Public Safety and Corrections, Corrections Services, adopted LR 45:677 (May 2019).

James M. Le Blanc  
Secretary

1905#038

## **RULE**

### **Department of Public Safety and Corrections Gaming Control Board**

#### **Gaming Operations Relocation (LAC 42:III.2401)**

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it has amended LAC 42:III.2401, Relocation of Gaming Operations to a Facility, Procedure. This rule change clarifies practices already required to take place in the industry and creates uniformity with the amended statutes and the newly enacted statutes as a result of Act 469 of the 2018 Regular Legislative Session. The rule change allows for the consideration of past economic development in the relocation of gaming operations to a facility. This Rule is hereby adopted on the day of promulgation.

#### **Title 42**

### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 24. Relocation of Gaming Operations**

#### **§2401. Relocation of Gaming Operations to a Facility, Procedure**

A. - B.1.h. ...

2. If substantial completion of a riverboat vessel and approved project was completed after January 1, 2005 (with a minimum monetary investment of \$200 million), the board will consider this past economic investment and may allow not more than 6 percent of the gaming positions as provided in R.S. 27:44 to be located in an existing structure which is part of the approved project. The licensee shall request the change to the designated gaming area by filing a petition detailing the date of substantial completion and the monetary investment and shall include the following:

- a. a site plan designating the licensee's current approved berth site and the location of the existing structure;
- b. a legal property description of the land owned or leased by the licensee on which the structure is located;
- c. a detailed plan for staffing, installation of gaming devices and equipment, security and surveillance, and a date for the commencement of gaming activities at the site; and
- d. any other information, documentation, plan, or description requested by the board or division.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2217 (December 2018), amended LR 45:677 (May 2019).

Ronnie Jones  
Chairman

1905#009

## RULE

### Department of Public Safety and Corrections Gaming Control Board

#### Non-Gaming Suppliers (LAC 42:III.2108)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., has amended LAC 42:III.2108, Non-Gaming Suppliers. This rule change clarifies practices already required to take place in the industry and creates uniformity with the amended statute as a result of Act 685 of the 2018 Regular Legislative Session. The rule change establishes the monetary amount of goods and services at which point a non-gaming permit is required. This Rule is hereby adopted on the day of promulgation.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 21. Licenses and Permits

#### §2108. Non-Gaming Suppliers

A. A non-gaming supplier shall not apply for a non-gaming supplier permit unless it reasonably foresees supplying goods or services and/or receiving payment for goods or services from a licensee or casino operator for an amount equal to or greater than five hundred thousand dollars per calendar year. Any non-gaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee or casino operator, may be required by the board or division to apply to the division for a finding of suitability.

B. A non-gaming supplier shall be prohibited from supplying goods or services to, and/or receive payment for goods or services from, a licensee or casino operator of an amount equal to or greater than five hundred thousand dollars during any calendar year, unless such non-gaming supplier holds a valid non-gaming supplier permit, an exemption pursuant to the provisions of Subsection C of this Section, or a waiver pursuant to the provisions of Subsection E of this Section.

C. - D. ...

E. Any non-gaming supplier required to obtain a non-gaming supplier permit, other than those listed in Subsection C of this Section, may request a waiver of the necessity of obtaining a non-gaming supplier permit. The division may grant such a request upon showing of good cause by the non-gaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the non-gaming supplier.

F. ...

G. Each licensee and casino operator shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the licensee or casino operator during the previous quarter, or an amount equal to or greater than \$500,000 during the preceding calendar year as payment for providing non-gaming services or goods. This report shall include the name and address of the supplier, a description of the type of goods or services provided, the supplier's non-gaming

supplier permit number if paid an amount equal to or greater than \$500,000 during the year included in the report, federal tax identification number, and the total amount of all payments made by the licensee or casino operator, or any person acting on behalf of the licensee or casino operator, to each supplier. The report shall be sent to the division no later than 20 days after the end of each quarter.

H. - I.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1609 (July 2012), amended LR 41:1497 (August 2015), amended LR 45:678 (May 2019).

Ronnie Jones  
Chairman

1905#008

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

#### Hang Tags for Mobility Impaired Individuals (LAC 55:III.Chapter 23)

Editor's Note: This Rule is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on pages 279-281 of the February 20, 2019 *Louisiana Register*.

Under the authority of R.S. 47:463.4, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby adopts rules regarding Hang Tags for Mobility Impaired Individuals. This Chapter is new and implements the provisions of Act 240 of the 2018 Regular Session of the Louisiana Legislature which provide for the length of time a permanent hang tag is valid. This Rule is hereby adopted on the day of promulgation.

#### Title 55

#### PUBLIC SAFETY

#### Part III. Motor Vehicles

#### Chapter 23. Hang Tags for Mobility Impaired Individuals

#### §2301. Definitions

A. As used in this Chapter, the following terms have the meanings described below.

*Medical Examiner*—a person licensed to practice medicine in Louisiana or any other state or territory of the United States, a person licensed to practice chiropractic by the Louisiana State Board of Chiropractic Examiners, a person licensed by the Louisiana State Board of Physical Therapy Examiners, or advanced practice registered nurses.

*Mobility Impaired*—the individuals who come under statutory definition of a mobility impaired person or a veteran who has a 50 percent or more service connected disability are eligible for the mobility impaired hang tag.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019), repromulgated LR 45:000 (May 2019).

**§2303. Application for Hang Tags  
(Visiting a Field Office)**

A.1. First time applicants applying for a hang tag for mobility impairment must include:

a. a currently dated medical examiner's certification of mobility impairment form (DPSMV 1966). A *medical examiner* is defined as:

- i. a person licensed to practice medicine in Louisiana or any other state or territory of the United States;
- ii. a person licensed to practice chiropractic by the Louisiana State Board of Chiropractic Examiners;
- iii. a person licensed by the Louisiana State Board of Physical Therapy Examiners, or an advanced practice registered nurse;

b. in the case of a disabled veteran, a decision letter or an affidavit from the Veterans Affairs Office attesting to the veteran's disability. A veteran who currently has a disabled veteran's license plate is not required to submit a separate medical examiner's certificate of mobility impairment. He is eligible to receive a "permanent" hang tag at no charge at initial issuance.

2. The certification must indicate the type of impairment as follows.

a. Permanently Impaired. Certification must state the physical condition which qualifies the applicant for a hang tag is a permanent condition. A mobility impaired hang tag will be issued with a 10 year expiration date. Re-certification will not be required upon renewal.

b. Temporarily Impaired. Certification must state the physical condition which qualifies the applicant for a hang tag is temporary (one year or less). A mobility impaired hang tag will be issued with a one year expiration date. If the temporary mobility impairment persists past a year from the date of issuance, an additional certification must be submitted upon renewal of temporary hang tag.

3. Up to three additional hang tags may be issued on behalf of a person with a mobility impairment. Only one fee (\$3 for temporarily impaired hang tag and \$7.50 for a permanently impaired hang tag) will be accessed. Only one mobility impaired ID card will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019), repromulgated LR 45:679 (May 2019).

**§2305. Proper Display of a Hang Tag**

A. The hang tags are designed to be hung from the vehicle's front windshield rear view mirror. When there is no rear view mirror, the hang tag may be displayed on the vehicle's dashboard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019), repromulgated LR 45:679 (May 2019).

**§2307. Application for Hang Tags  
(Applicant is Unable to Visit a Field Office)**

A. First time applicants:

1. a currently dated medical examiner's certification form or, in the case of a disabled veteran, proof of a special

disabled veteran license plate, a decision letter or an affidavit from the Office of Veteran Affairs and a separate medical examiner's certification which indicates the applicant is unable appear in person at the Office of Motor Vehicles;

2. a color photograph of the applicant.

B. Renewal applicants:

1. if the applicant has a permanent status—mobility ID and expired hang tag;

2. if the applicant has a temporary status—a currently dated examiner's certification of mobility impairment form (DPSMV 1966) or, in the case of a disabled veteran, a decision letter or an affidavit from the Office of Veteran Affairs and a separate medical examiner's statement indicating the applicant is unable to appear in person at the Office of Motor Vehicles;

3. a color photograph of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019), repromulgated LR 45:679 (May 2019).

**§2309. Denial, Revocation or Cancellation of Hang Tags or Mobility Impaired Identification Card**

A. The department may deny, cancel or revoke a hang tag or mobility impaired identification card for any of the following reasons.

1. The applicant made a misstatement of fact in his/her application for a hang tag or mobility impaired identification card, or the applicant omitted a material fact from his application for a hang tag or mobility impaired identification card.

2. The applicant intentionally furnished false information to the department in connection with his application for hang tag or mobility impaired identification card.

3. The individual has been found to be in possession of a fictitious hang tag or mobility impaired identification card, or a hang tag or mobility impaired identification card which has been altered or caused to be altered by the individual.

4. Any personal information of the individual that appears on the face of the hang tag or mobility impaired identification card has changed, and more than 60 days has elapsed since the information has changed.

5. The department receives information that the individual is no longer a resident of the state of Louisiana.

6. The individual to whom the hang tag or mobility impaired identification card was issued has allowed another individual to use his/her hang tag or mobility impaired identification card for purposes of identification or in the furtherance of the commission of fraud.

7. The individual is convicted of any criminal offense in which fraud, theft, or unauthorized use are elements of the offense, and the individual used the hang tag or mobility impaired identification card in the commission of the offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019), repromulgated LR 45:679 (May 2019).



Lt. Col. Jason Starnes  
Chief Administrative Officer

## **RULE**

### **Department of Public Safety and Corrections Office of State Police**

#### **Issuance of Concealed Handgun Permits (LAC 55:I.1309)**

Editor's Note: Section 1309 is being repromulgated to correct citation errors. The original Rule can be viewed in its entirety on page 582 of the April 20, 2019 *Louisiana Register*.

In accordance with the provisions of R.S. 40:1379.1 relative to the authority of Louisiana Department of Public Safety to promulgate and enforce rules pursuant to the issuance of concealed handgun permits, Louisiana Department of Public Safety, Louisiana State Police hereby has amended rules under Title 55, Part I, §§1301, 1305, 1307, 1309, and 1315 in relation to requiring certified copies of court minutes as opposed to affidavits, clarification of arrest record, failing to disclose an arrest, requiring fingerprint cards when fingerprint card is not already on file, suspension of permits for DWI arrest, returning invalid permits, and reapplying for permit after denial. This Rule is hereby adopted on the day of promulgation.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part I. State Police**

#### **Chapter 13. Issuance of Concealed Handgun Permits §1309. Permits**

A. - G.2. ...

H. An otherwise lawful permit shall be considered automatically suspended and not valid while the permittee is

under the influence of alcoholic beverages or a controlled dangerous substance. For purposes of these rules and the applicable law, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964. If permittee is arrested for DWI (R.S. 14:98 provisions), the suspension of the concealed handgun permit is indefinite until the DWI is formally resolved with a dismissal, nolle prose, or if the permittee is found not guilty of DWI, or until admission into and completion of a district attorney's pre-trial diversion program. Permittee shall provide proof of official disposition by a certified copy from the court or the district attorney's Office.

I. For any arrest whereby the crime is punishable by a penalty which is disqualifying, the permit shall become invalid by suspension and remain invalid until the official judicial disposition of the charge. The concealed handgun permit shall be returned to the Concealed Handgun Permit Office at Louisiana State Police within 15 days after notification from the Concealed Handgun Permit Office.

J. The deputy secretary shall automatically suspend a permit for six months if a permittee fails to comply with the provisions of R.S. 40:1379.3(I)(2).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996), amended LR 38:1282 (May 2012), LR 45:680 (April 2019), repromulgated LR 45:680 (May 2019).

Lt. Col. Jason Starnes  
Chief Administrative Officer

1905#011

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Maintenance and Inspection Fee (LAC 7:XV.Chapter 3)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., and under the authority of enabling statutes, R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655 the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, intends to amend these rules and regulations to reduce the fee paid by producers for the inspection and certification of cotton for the presence of the boll weevil from \$5 per acre to \$4 per acre. The excessive rainfall during the fall harvest season of 2018 has caused a hardship on many cotton producers in the State of Louisiana. This hardship experienced by the cotton producers is supported by the USDA's designation of natural disaster in 35 parishes within the state of Louisiana. Due to the wet conditions, some producers were unable to harvest their cotton crop, while other producers were left with the inability to destroy standing cotton stalks. The producers that were able to prepare fields for this year's cotton crop did so at an increased expense, which significantly reduced farm income for cotton producers. The proposed action, while not affecting the quality of inspection and certification for the presence of the boll weevil, will provide some relief in input costs for cotton producers in this state.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantines

##### Chapter 3. Boll Weevil

##### §301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$4 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, amended LR 40:1517 (August 2014); LR 42:1644 (October 2016), LR 45:

##### §303. Definitions Applicable to Boll Weevil

A. - B. ...

\* \* \*

*Maintenance Inspection Fee*—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$4 per acre for each acre of cotton planted in the state.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014); LR 42:1644 (October 2016), LR 45:

##### §321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$4 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014); LR 42:1644 (October 2016), LR 45:

##### Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule should have no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Marc Bordelon, Director of the Boll Weevil Eradication Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 10th day of June, 2019.

Mike Strain DVM  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Maintenance and Inspection Fee

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have any costs for the Louisiana Department of Agriculture and Forestry (LDAF). The proposed rule change reduces the per-acre fee for inspection of cotton for the presence of boll weevils by \$1, from \$5 to \$4. The fee reduction will align revenues from the statutorily dedicated Horticulture and Quarantine Fund in FY19 and subsequent fiscal years based on FY 18 expenditures (\$718,077).

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to reduce revenue collections for the statutorily dedicated Horticulture and Quarantine Fund by \$220,000 in FY 19, FY 20, and FY 21, based upon projected cotton acreage of 220,000 acres, LDAF generates \$1.1 M annually from the \$5 per acre fee for inspection of cotton for the presence of boll weevils. The \$1 reduction is anticipated to reduce revenues to \$880,000 in FY 19 and subsequent years.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect cotton producers in Louisiana by reducing the cotton inspection fee from \$1 (from \$5 to \$4 per acre).

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Dane Morgan  
Assistance Commissioner  
1905#045

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Sweet Potato Certification Standards (LAC 7:XIII.755)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("Department") and the Agricultural Chemistry and Seed Commission intend to amend LAC 7:XIII.755 to differentiate Guava Root Knot Nematode ("GRKN") from other Root Knot Nematode species and apply a zero tolerance for GRKN in certified sweet potato seed. GRKN is aggressive and can cause severe damage to host plant species. GRKN poses an imminent threat to the health and welfare of Louisiana's sweet potato industry.

GRKN was introduced to Louisiana in 2018 through sweet potato seed originating from out-of-state. GRKN has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of sweet potato. In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons, the existence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture and sweet potato industries. The proposed change to LAC 7:XIII.755 would help prevent the spread of GRKN to other parts of the state by applying a zero tolerance standard for its presence in certified sweet potato seed.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XIII. Seeds

#### Chapter 7. Certification of Specific Crops/Varieties

#### Subchapter B. Grain and Row Crop Seeds

#### § 755. Sweet Potato Certification Standards (Virus and Non Virus-Tested)

##### A. - G.4.b. ...

c. Specific Seed Root Tolerance Standards of Virus-Tested and Non-Virus-Tested Sweet Potatoes

Maximum Tolerance Allowed for Virus-tested and Non Virus-tested Sweet Potatoes		
Presence or symptoms of:	G1 (Foundation) G2 (Certified) Seed Roots	G3 (Certified) Seed Roots
Surface rots (Fusarium spp.) and Soft Rots (Rhizopus spp.)	5%	5%
Bacterial Root Rot (Erwinia spp.)	none	None
Black Rot (Ceratocystis fimbriata)	none	None
Scurf (Monilochaetes infusans)	1.0%	2.0%
Streptomyces soil rot (Streptomyces ipomoeae)	2.5%	5.0%
Root-Knot Nematode - (Meloidogyne spp.) (Other than Guava Root-Knot Nematode)	1.0%	2.0%
Guava Root-Knot Nematode (Meloidogyne enterolobii)	None	None
Russet Crack (a strain of SPFMV)	None	None
Wilt (Fusarium oxysporum f. sp. batatas)	None	None
Sweetpotato Weevil (Cylas formicarius)	None	None
Exotic or hazardous pests	None	None
Variety Mixture	None	None
Off-types (mutations)	0.20%	0.50%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013), amended LR 40:755 (April 2014), LR 44:1855 (October 2018), LR 45:

#### Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Lester Cannon, Director of the Seed Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 10th day of June, 2019.

Mike Strain, DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Sweet Potato Certification Standards

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have fiscal impact to the Louisiana Department of Agriculture and Forestry ("LDAF") other than the cost of promulgation for FY 19 to differentiate Guava Root Knot Nematode ("GRKN") from other Root Knot Nematode Species and apply a zero tolerance for GRKN in certified sweet potato seed.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have any effect on revenue collections for state or local government entities.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to create any costs, but may help prevent the spread of GRKN to other parts of the state by applying a zero tolerance standard for its presence in certified sweet potato seed.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Dane Morgan  
Assistant Commissioner  
1905#044

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Children and Family Services Division of Child Welfare

State Central Registry and Child Protective Services  
Administrative Appeal  
(LAC 67:V.1103 and 1111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Sections 1103 and 1111.

This Rule will implement the provisions of 42 USC 671, et seq. by permitting the release of information on the state central registry for employees or potential employees to out of state child care institutions, as defined by 42 USC 672. It will also assure compliance with 42 USC 9858f for child care background clearances to be completed within 45 days of submission; and to provide individuals opportunities for administrative appeals when DCFS intends to justify/validate them for their involvement as a perpetrator of child abuse and/or neglect in accordance Louisiana Children's Code, Article 616.1.1.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 3. Child Protective Services

#### Chapter 11. Administration and Authority

#### §1103. State Central Registry

##### A. - C.1. ...

2. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A, subsequent to July 1, 2018, shall be provided written notice of the SCR and the rules governing maintenance and release of SCR records. As of August 1, 2018, the written notice shall also inform the individual of their right to an administrative appeal pursuant to LAC 67:V.1111. The individual's name will not be placed on the SCR until the individual has exhausted his right to an administrative appeal. If the individual fails to request an administrative appeal within 20 days of the written notification of the justified/valid finding, withdraws their request for an administrative appeal, or the justified/valid finding is upheld by an administrative law judge, the individual's name will be immediately placed on the SCR.

##### D. - G.10. ...

G.11. DCFS will disclose to a potential employer or another lead state agency information on perpetrators of child abuse and/or neglect who are listed on the SCR for individuals as requested by other states as pursuant to federal law for employees and potential employees of child day care settings; and, out of state child care institutions as defined by 42 USC 672, upon receipt of a written request containing the individual's consent and upon receipt of the \$25 fee. DCFS will not disclose such information until it has confirmed receipt of the fee.

**AUTHORITY NOTE:** Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1,

42 USC 15601 et seq., 28 CFR 115.6., 42 USC 9858f, and 42 USC 671, et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), amended LR 45:

#### §1111. Child Protective Services Administrative Appeal

A. The Department of Children and Family Services (DCFS) establishes an administrative appeal process with the Division of Administrative Law (DAL). The purpose is to provide individuals the right to appeal DCFS Child Protective Services investigation findings of justified/valid. Any individual with a justified/valid finding of child abuse or neglect may request an appeal of their justified/valid finding directly with DAL.

B. Individuals with justified/valid findings in an investigation prior to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. When a request for an SCR clearance is received by DCFS, or DCFS verifies that an individual has a justified/valid finding, and the individual is listed as a perpetrator with a justified/valid finding of abuse or neglect in an investigation prior to August 1, 2018; the individual will be notified in writing of their right to an administrative appeal. The individual will have 20 days from the date of the written notification to request an appeal through DAL.

C. Any individual notified of a DCFS justified/valid finding in an investigation subsequent to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. The individual will have 20 days from the date of the written notification to request an appeal through the DAL.

D. When DCFS receives a request for an SCR clearance on an individual who is a prospective or current employee in a licensed/registered child care setting by the Louisiana Department of Education, a current or prospective employee of an Office of Juvenile Justice juvenile facility, a current or prospective employee in a specialized provider, juvenile detention facility provider licensed by DCFS; or, a current or prospective employee of DCFS in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, they may request an expedited appeal. A request for an expedited appeal shall be submitted to DAL within 10 days of the date of the written notification. If the appeal is not submitted within the 10 days, the individual has 20 days from the date of the written notification to request a non-expedited appeal through DAL.

##### E. - I. ...

1. the individual does not request an administrative appeal with DAL within 20 days of the date of the written notification of their right to appeal the DCFS determination;

##### I.2. - K. ...

**AUTHORITY NOTE:** Promulgated in accordance with Act 348 of 2017 and Children's Code Article 616.1.1., and 42 USC 9858f.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:1002 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), amended LR 45:

#### **Family Impact Statement**

The proposed rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through, June 25, 2019, to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA 70821.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on, June 25, 2019, at DCFS, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 AM. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: State Central Registry and Child Protective Services Administrative Appeal**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$1,917 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

Propose rule will permit the release of information on the state central registry to out of state child care institutions, as defined by 42 USC 672, and as required by 42 USC 671, et seq. The rule also amends the timeline from 30 days to 20 days for an individual to request an administrative appeal of a valid finding identifying them as a perpetrator of child abuse and/or neglect.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

DCFS is anticipated to generate approximately \$10,400 (416 requests x \$25 fee) in revenue in FY 20 for DCFS and \$12,500 (500 requests x \$25 fee) in future fiscal years as a result of this rule change.

DCFS charges a fee of up to \$25 to conduct SCR background checks. DCFS anticipates receiving 416 requests for background check from out of state child care institutions in FY 20 and 500 annual requests in future fiscal years.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There may be an economic cost to individuals included in the SCR given that it will limit their opportunity to find employment in the childcare industry. However, they have the right to appeal any investigative findings before it would impact their employability.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The implementation of this rule may reduce the number of available childcare workers given that individuals included in the SCR will likely be unemployable in the childcare industry.

Rhenda Hodnett  
Assistant Secretary  
1905#050

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

#### **Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Personnel Evaluations (LAC 28:CXLVII.315)**

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. Educator certification issuance and renewal are contingent upon satisfactorily meeting the standards for effectiveness in accordance with R.S. 17:3886 and 17:3902, LAC 28:CXXXI (Bulletin 746), and LAC 28:CXLVII (Bulletin 130). Statutory language delineates that assistance, support, and resources are provided upon the first determination of an ineffective rating through an intensive assistance program developed and implemented by the local governing authority. The proposed amendments will align policy with statute regarding standards for effectiveness.

#### **Title 28**

#### **EDUCATION**

#### **Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel**

#### **Chapter 3. Personnel Evaluation**

#### **§315. Intensive Assistance**

#### **[Formerly §329]**

##### **A. ...**

B. An intensive assistance plan designed to address the complexity of the educator deficiencies shall be developed with the evaluatee within 30 school days of an evaluation resulting in the initiation of the intensive assistance plan.

C. The evaluatee shall be informed in writing of placement in an intensive assistance plan, as well as the reasons for such placement, and be formally re-evaluated within one calendar year of the initiation of the intensive assistance plan.

D. Upon completion of a formal evaluation, if the evaluatee receives an ineffective rating immediately upon

completion of the intensive assistance plan or if the intensive assistance plan is not completed in conformity with its provisions, the LEA shall timely initiate termination proceedings.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:391.10, 17:3871-3873, 17:3881-3884, and 17:1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1218 (May 2012), LR 45:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), June 9, 2019 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Personnel Evaluations**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions will have no effect on costs or savings to the state.

In March 2019, the Board of Elementary and Secondary Education (BESE) approved revisions to Bulletin 746, *Louisiana Standards for Certification of School Personnel*, relative to the issuance, suspension, denial, and revocation of certificates based on standards of effectiveness. Revisions to Bulletin 130, *Regulations for the Evaluation and Assessment of School Personnel*, are further required to align policy and statute regarding standards of effectiveness.

Educator certification issuance and renewal are contingent upon satisfactorily meeting the standards for effectiveness in accordance with Louisiana R.S. 17:3902, R.S. 17:3886, Bulletin 746, and Bulletin 130. Louisiana statute delineates that assistance, support, and resources be provided upon the first determination of an ineffective rating through an intensive assistance program developed and implemented by the local governing authority. Proposed revisions for consideration in Bulletin 130 align language in §315. Intensive Assistance, to statutory language.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy change will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1905#021

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators  
Operation and Administration; Certification of Personnel; Student Services; Suicide Prevention; and  
Course Credit for Private Piano and Studio Strings Lessons  
(LAC 28:LXXIX.117, 303, 901, 1309 and 2339)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The proposed amendments include alignment of policy regarding suicide prevention, private music course credit, the repeal of outdated language, and technical edits.

#### Title 28 EDUCATION

#### Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

#### Chapter 1. Operation and Administration

##### §117. Instructional Time

A. Each school will adopt a calendar that includes 57,750 minutes of instructional time. A nonpublic school may modify the total number of instructional minutes per day and instructional days per year, provided that 57,750 minutes of instructional time per year are scheduled.

1. ...

2. Each non-public school district or independent non-public school may include in its calendar a provision for dismissal of high school senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time or the equivalent number of minutes, in accordance with minimum attendance requirements found in §901.C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 39:1439 (June 2013), LR 45:

#### Chapter 3. Certification of Personnel

##### §303. Instructional Staff

A. - F. ...

G. Repealed.

H. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006), LR 32:2237 (December 2006), LR 34:229 (February 2008), LR 34:609 (April 2008), LR 39:1440 (June 2013), LR 45:

#### Chapter 9. Student Services

##### §901. Attendance

A. - B.2.b.ii. ...

C. In order to be eligible to receive grades, full-day high school students must be in attendance a minimum of 26,400 minutes per semester or 52,800 minutes per school year for schools not operating on a semester basis. An equally divided number of minutes may be used to calculate minimum per-course instructional minute requirements. Elementary students must be in attendance a minimum of 52,800 minutes per school year.

C.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:3078 (December 2005), LR 39:1442 (June 2013), LR 45:

#### Chapter 13. Preventive Programs

##### §1309. Suicide Prevention

A. Teachers, school counselors, principals and certain other school administrators in approved nonpublic elementary and secondary schools will receive two hours of annual in-service training in suicide prevention. Instruction may be provided by self-review of suitable materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:437.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:38 (January 2019), amended LR 45:

#### Chapter 23. High School Program of Studies

##### §2339. Course Credit for Private Piano and Studio Strings Lessons

A. Approval by the nonpublic school leader is required prior to issuance of credit for private piano and studio strings instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 39:1451 (June 2013), LR 45:

#### Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.



3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child And dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 12 p.m., June 9, 2019 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped

by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Operation and Administration; Certification of Personnel; Student Services; Suicide Prevention; and Course Credit for Private Piano and Studio Strings Lessons**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed revisions include alignment regarding suicide prevention, private music course credit, repeal of outdated language, and technical edits.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux  
Deputy Superintendent  
1905#022

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State  
Certification of School Personnel  
Certifications—Eligibility; Endorsements;  
and Suspension, Denial, and Revocation  
(LAC 28:CXXXI.405, 659 and Chapter 9)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The proposed amendments will align the regulations with statutory language regarding the standards for effectiveness of educators, as well as:

- permit certification for an individual with a master’s degree from a regionally-accredited college or university approved by the Council for Accreditation of counseling and Related Educational Program (CACREP);
- remove requirements for certified mail;
- align language in Sections where duplicated language may conflict;

- consolidate Sections outlining criminal offenses into one Section that will be referenced in various Parts of the *Louisiana Administrative Code*, Title 28;
- establish the process for certification relative to standards of effectiveness and the subsequent due process upon certification denial or suspension; and
- facilitate the issuance/reissuance of certification in limited instances and on a more timely basis, which is not restricted by the meeting schedule of BESE, with the addition of provisional issuance/reissuance.

## Title 28 EDUCATION

### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 4. Ancillary School Service Certificates

##### Subchapter A. General Ancillary School Certificates

#### §405. Counselor K-12 (Counselor in a School Setting)

A. ...

B. Eligibility requirements:

1. completion of a standards-based master's degree program in counseling from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);

a. candidates completing counseling programs that are not in the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

2. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours ; and

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting;

B.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 38:1400 (June, 2012), LR 39:1463 (June 2013), LR 45:

#### Chapter 6. Endorsements to Existing Certificates

##### Subchapter C. All Other Teaching Endorsement Areas

#### §659. Counselor K-12 (Counselor in a School Setting)

A. ...

B. Eligibility requirements:

1. ...

2. completion of a standards-based master's degree program in counseling from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);

a. candidates completing counseling programs other than the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

3. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contacts hours; or

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting;

B.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:1618 (August 2007), LR 38:1401 (June, 2012), LR 39:1465 (June 2013), LR 45:

### Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

#### §901. Overview

A. Teaching certificates can be denied, suspended, or revoked for certain criminal offenses, for the submission of fraudulent documentation, for professional license censure, for failure to meet the standards for effectiveness, or for participating in cheating. This Chapter presents those circumstances plus the circumstances under which certificates may be reinstated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 38:3140 (December 2012), LR 44:264 (February 2018), LR 45:

#### §903. Definitions

A. The following definitions apply to this Chapter.

\* \* \*

*Board* or *BESE*—the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

*Cheating*—as determined by the LDE in accordance with LAC 28:XI, *Bulletin 118—Statewide Assessment Standards and Practices*, a testing irregularity committed by an educator in order to alter student or school assessment results or by inappropriately accessing secure test materials in violation of Bulletin 118, LAC 28:XI.Chapter 53. The determination is made by the LDE in consultation with the LEA, as specified in LAC 28:XI, Bulletin 118.

\* \* \*

*Educator*—a teacher or administrator of a public or nonpublic elementary or secondary school or school system.

\* \* \*

*Teaching Certificate* or *Certificate*—any license, permit, or certificate issued by the Louisiana Department of Education, Division of Teacher Certification, Preparation and Recruitment.

B. - C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:265 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:

#### §904. Criminal History Reporting

A. Crimes listed in this Subsection are reported under R.S. 15:587.1, and include convictions for attempt or

conspiracy to commit any of these offenses. Conviction or plea of *nolo contendere*, even if adjudication was withheld, will be considered for the purpose of certification. In addition, expungements, first offender pardons, and pretrial diversions are disclosed in criminal background checks conducted in accordance with R.S. 17:15, and specifically:

1. any felony conviction;
2. misdemeanor and felony offenses which include, but are not limited to, offenses defined in the following table;

Criminal Offenses	
R.S. 14:2(B)	Crimes of Violence
R.S. 14:74	Criminal Neglect of Family
R.S. 14:79.1	Criminal Abandonment
R.S. 14:82.1.1	Sexting
R.S. 14:82.2	Purchase of Commercial Sexual Activity
R.S. 14:83	Soliciting for Prostitutes
R.S. 14:83.1	Inciting Prostitution
R.S. 14:83.2	Promoting Prostitution
R.S. 14:83.3	Prostitution by Massage
R.S. 14:83.4	Massage; sexual Content Prohibited
R.S. 14:85	Letting Premises for Prostitution
R.S. 14:89.2	Crime against Nature by Solicitation
R.S. 14:93.2.1	Child Desertion
R.S. 14:282	Operation of Places of Prostitution
R.S. 14:283.1	Voyeurism
R.S. 14:284	Peeping Tom
R.S. 15:541	Sex Offenses
R.S. 40:966(A)	Penalty for Distribution or Possession with intent to Distribute Narcotic Drugs Listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited Acts; Schedule II, Penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited Acts; Schedule III; Penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited Acts; Schedule IV; Penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited Acts; Schedule V; Penalties; Manufacture; Distribution

3. misdemeanor and felony offenses which include, but are not limited to, offenses defined in the following table, for which issuance or reinstatement of a certificate will never be considered.

Prohibited Criminal Offenses	
R.S. 14:30	First Degree Murder
R.S. 14:30.1	Second Degree Murder
R.S. 14:31	Manslaughter
R.S. 14:32.6	First Degree Feticide
R.S. 14:32.7	Second Degree Feticide
R.S. 14:32.8	Third Degree Feticide
R.S. 14:41	Rape
R.S. 14:42	1st Degree Rape
R.S. 14:42.1	2nd Degree Rape
R.S. 14:43	3rd Degree Rape
R.S. 14:43.1	Sexual battery
R.S. 14:43.1.1	Misdemeanor Sexual Battery
R.S. 14:43.2	2nd degree Sexual Battery
R.S. 14:43.3	Oral Sexual Battery
R.S. 14:43.4	Female Genital Mutilation
R.S. 14:43.5	Intentional Exposure to the AIDS Virus
R.S. 14:44	Aggravated Kidnapping
R.S. 14:44.1	Second Degree Kidnapping
R.S. 14:44.2	Aggravated Kidnapping of a Child
R.S. 14:45	Simple Kidnapping
R.S. 14:46.2	Human Trafficking
R.S. 14:46.3	Trafficking of Children for Sexual Purposes

Prohibited Criminal Offenses	
R.S. 14:46.4	Rehoming of a Child
R.S. 14:80	Felony Carnal Knowledge of a Juvenile
R.S. 14:80.1	Misdemeanor Carnal Knowledge of a Juvenile
R.S. 14:81	Indecent Behavior with a Juvenile
R.S. 14:81.1	Pornography Involving Juveniles
R.S. 14:81.2	Molestation of a Juvenile or a Person with a Physical or Mental Disability
R.S. 14:81.3	Computer-aided Solicitation of a Minor
R.S. 14:81.4	Prohibited Sexual Conduct between Educator and Student
R.S. 14:82	Prostitution
R.S. 14:82.1	Prostitution; Persons under 17; Additional Offenses
R.S. 14:84	Pandering
R.S. 14:86	Enticing Persons into Prostitution
R.S. 14:89	Crime Against Nature
R.S. 14:89.1	Aggravated Crime against Nature
R.S. 14:92	Contributing to the Delinquency of Juveniles
R.S. 14:93	Cruelty to Juveniles
R.S. 14:93.3	Cruelty to the Infirm
R.S. 14:93.5	Sexual Battery of Persons with Infirmitities
R.S. 14:106	Obscenity
R.S. 14:283	Video Voyeurism
R.S. 14:286	Sale of Minor Children

B. Offenses committed in a jurisdiction other than Louisiana which, in the judgement of the bureau charged with responsibility for responding to the request, would constitute a crime under the provisions cited in Subsection A of this Section and provisions listed under the federal criminal code having analogous elements of criminal and moral turpitude, will be considered for purposes of certification. (Federal criminal code provisions are located in title 18 of the U.S.C.A., *Crimes and Criminal Procedure*.)

C. Convictions that are set aside pursuant to articles 893 or 894 of the *Louisiana Code of Criminal Procedure*, expunged, or which are pardoned subject to Louisiana pardon laws nonetheless, will be treated as convictions for the purpose of denial, suspension, or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, 17:6, and 17:15.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

#### **§905. Denial of Initial or Renewal Certificates**

A. An application for a Louisiana teaching certificate or an application for the renewal of an expired Louisiana teaching certificate will be denied if the department determines that the individual applying for the certificate has been convicted of any offense defined in §904.A of this Chapter, has submitted fraudulent documentation, has professional license censure, has failed to meet the standards for effectiveness, or has participated in cheating. An individual may apply for a certificate if the following conditions apply:

1. five years have elapsed from date of entry of final conviction, the date of entry of his plea of *nolo contendere*, or from the date of receipt of notification from the board of its determination that the person submitted fraudulent documentation or facilitated cheating on a state assessment; and/or

2. the board has received a request for a formal appeal and has conducted a records review of relevant documentation.

B. An application for a Louisiana teaching certificate or an application for a renewal of an expired teaching

certificate will be denied if the individual applying for the certificate:

1. has ever had any professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered;

2. is currently being reviewed or investigated for purposes of such action as stated in this Subsection or if such action is pending; and/or

3. has failed to meet the standards for effectiveness in accordance with LAC 28:CXLVII, Bulletin 130.

C. The applicant will be notified that the certificate has been denied. The applicant must provide copies of any documents that verify identity, refute the existence of a criminal conviction, verify the accuracy of fraudulent documentation as submitted, or verify the accuracy of the report regarding the participation in cheating, as submitted. If a conviction or information upon which the certificate has been denied is reversed, such action must be communicated to the department through documentation provided by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 44:266 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:

#### **§906. Issuance of a Denied Certificate**

A. Issuance will never be considered for educators convicted of crimes defined in §904.A.3 of this Chapter.

1. Repealed.

- B. ...

C. An applicant may apply to the board for the issuance or renewal of a Louisiana teaching certificate under the following conditions.

1. - 2. ...

3. The local governing authority submits an appeal that justifies issuance of a certificate for an educator who has failed to meet the standards for effectiveness.

- D. - D.1.a. ...

- b. conviction for a crime listed in §904.A.1 and 2 of this Chapter, R.S. 15:587.1, or for any felony;

- c. participation in cheating;

- d. professional license/certificate censure; or

- e. failure to meet the standards for effectiveness.

E. Board of Elementary and Secondary Education Responsibilities

1. The board will consider the request for issuance and documentation provided, but is not required to conduct a records review for crimes defined in §904.A.3 of this Chapter and may summarily deny a request for issuance of certification.

2. - 7. ...

F. Certification may be issued provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;

2. there are no additional convictions or repeat offenses; and

3. conviction does not involve violence, sex, children, or any other crime outlined in R.S. 15:587.1.

G. An educator meeting criteria for provisional issuance will be issued a certificate, appropriate to the credentials of the educator, and valid for a period of 90 days from the date of issuance. The provisional issuance is subject to ratification by the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, certification will be suspended and revoked.

H. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional issuance and board ratification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:

#### **§907. Suspension and Revocation of Certificates for Criminal Offenses**

A. A Louisiana teaching certificate will be suspended and revoked if the individual holding the certificate has been convicted of any offense defined in §904.A of this Chapter. The information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE, even if the Louisiana educator certification has expired. Such individuals will be notified in accordance with this Section.

B. When the department is notified that an educator has been convicted of a specific crime, the following actions will occur.

1. Department staff will attempt to contact the educator to inform him/her that the department has information regarding a criminal conviction and is proceeding under this Section to suspend the certificate.

2. An educator will have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information. The requested verification may be provided through a telephone conversation or written correspondence.

3. Suspension of the certificate will proceed, as will all other steps in the process outlined in this Section if the educator cannot be reached or if employment status cannot be determined.

4. The certificate issued to the educator will be suspended if the department determines that there is evidence of a criminal conviction. The board, the educator, and the employing school system will be notified that the teaching certificate has been suspended pending official board action in accordance with revocation proceedings.

5. The educator will be notified that the certificate has been suspended and that the certificate will be revoked unless the educator can provide documentation that he/she was not convicted of the crime. The educator must provide copies of any documentation that verifies identity and refutes the existence of a criminal conviction.

6. If the conviction upon which a certificate has been suspended or revoked is reversed, such action will be communicated to the board through documentation provided

by the applicant. The board may receive such information and order reinstatement of the teaching certificate.

7. Upon official action by the board, any educator whose certificate has been revoked will be notified of such action. The correspondence will include instructions for and identification of the date when the individual may apply to the board for reinstatement of the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 44:266 (February 2018), LR 45:

#### **§908. Suspension and Revocation of**

##### **Certificate/Endorsement Due to Participation in Cheating**

A. A Louisiana teaching or educational leadership certificate will be suspended and revoked if the educator holding the certificate has been found by the LDE to have participated in *cheating*, as defined in §903.A of this Chapter. If the Louisiana teaching certificate is expired, and the educator has been found to have participated in cheating, this information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified in accordance with the process outlined in this Section.

B. When the department has determined an educator has been found to have participated in cheating, the following process will take place.

1. Department staff will attempt to contact the educator to inform him/her that the department has information regarding participation in cheating and is proceeding under this Section to suspend the certificate.

2. The educator will have 10 working days from the date of notification to provide verification that he/she has not been found to have participated in cheating. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the educator cannot be reached, suspension of the certificate will proceed, as will all other steps in accordance with this Section.

4. If the department determines that an educator was found to have participated in cheating, the certificate will be suspended. The board, educator, and employing school system will be notified that the teacher or administrator certificate has been suspended pending official board action in accordance with revocation proceedings.

5. The educator will be notified that the certificate has been suspended and will be revoked unless the educator can provide documentation that he/she was not found to have participated in cheating.

6. If the department subsequently determines that the educator did not participate in cheating, such action will be communicated to the department and/or the board through documentation provided by the department. The board may receive such information and may order reinstatement of the certificate.

7. Individuals who do not hold a current Louisiana teaching/educational leadership certificate and have been

found to have participated in cheating in the administration of standardized tests, will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified in accordance with this Section.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3140 (December 2012), amended LR 44:267 (February 2018), LR 45:

#### **§909. Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification**

A. A Louisiana teaching certificate will be suspended or revoked if an educator presents fraudulent documentation pertaining to the certificate to the state Board of Elementary and Secondary Education or the Department of Education. If the Louisiana teaching certificate is expired, and the individual has submitted fraudulent documents pertaining to certification, this information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. The department will verify prior to determining that an educator has submitted fraudulent documentation pertaining to certification. Upon confirmation of the information, the department will notify the educator that the certificate has been suspended pending official board action per revocation proceedings.

C. Such records review will be limited to the issue of whether or not the document submitted was fraudulent. The educator must provide the board with any documentation that will refute the fraudulent nature of the document.

D. The committee of the board will make a recommendation to the full board, based on documentation received from the department and the educator, whether the teaching certificate should be revoked. The decision of the board will be transmitted to the local school board and to the affected educator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 38:764 (March 2012), LR 44:267 (February 2018), LR 45:

#### **§910. Suspension and Revocation of Certificates due to Professional License/Certificate Censure**

A. A Louisiana teaching certificate may be suspended and or revoked if an educator is found to have had a professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

B. The department will verify prior to determining that an educator has had a professional license/certificate censured. Upon confirmation of the information, the department will notify the educator in writing that the certificate has been suspended pending official board action per revocation proceedings.

1. Such records review will be limited to the issue of whether or not the professional license/certificate has been censured. The educator must provide the board with any documentation that will refute the findings of the department investigation.

C. The committee of the board will make a recommendation to the full board, based on documentation received from the department and the educator, whether the teaching certificate should be revoked. The decision of the board will be transmitted to the local school board and to the affected educator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2003 (November 2018), amended LR 45:

#### **§911. Issuance or Renewal of Certificates—Standards for Effectiveness**

A. A Louisiana educator certificate shall be issued or renewed in accordance with LAC 28:CXLVII (Bulletin 130), R.S. 17:3886, and R.S. 17:3902 upon demonstration that the standard for effectiveness, as determined by the board, has been met for three years during the initial or renewal validity period of the certificate.

B. A Louisiana educator certificate shall not be issued or renewed if the educator demonstrates that the standard for effectiveness, as determined by the board, has not been met for three years during the validity period of the certificate unless evidence of effectiveness is received from the LEA, through an appeal, that justifies the issuance of a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

#### **§913. Reinstatement of Suspended or Revoked Certificates**

##### **[Formerly §911]**

A. Reinstatement will never be considered for an educator who has been convicted of a prohibited criminal offense as defined in §904.A.3 of this Chapter.

B. Reinstatement of a certificate will not be considered until at least five years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, the date of investigation results regarding the participation in cheating, or professional license/certificate censure as noted in §905.B of this Part, which resulted in certification suspension and/or revocation.

C. An applicant may apply to the board for reinstatement of a Louisiana teaching certificate under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, investigations regarding participation in cheating, or professional license/certificate censure as noted in §905.B of this Chapter.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation and a current state and FBI criminal history background check from the Louisiana State Police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole and probation.

3. The local governing authority submits an appeal, justifying the issuance of a certificate, on behalf of an educator who has failed to meet the standards for effectiveness in accordance with LAC 28:CXLVII, *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*.

#### **D. Applicant Responsibilities**

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for reinstatement of the certificate.

2. Provide each applicable item identified in Subsection C of this Section, evidence that all requirements for certification have been successfully completed and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials, or from other community leaders.

#### **E. Board of Elementary and Secondary Education Responsibilities**

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement records review and may summarily deny a request for issuance/reinstatement.

2. If the board or its designees decide to conduct a reinstatement records review, board staff will notify the applicant of a date, time, and place when a committee of the board will consider the applicant's request. Only the written documentation provided prior to the records review will be considered.

3. The board reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny any request for issuance by any applicant who:

- a. failed to disclose prior criminal convictions or expungements;
- b. falsified academic records;
- c. has been found to have participated in cheating in the administration of standardized tests;
- d. received further criminal convictions or participated in cheating; or
- e. failed to meet the standards for effectiveness outlined in LAC 28:CXLVII, Bulletin 130.

6. The committee of the board will make a recommendation to the full board regarding whether the teaching certificate issued to the applicant should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff will notify the applicant of the board action.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

F. Certification may be reinstated provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;
2. there are no additional convictions or repeat offenses; and
3. conviction does not involve violence, sex, children, or any other crime outlined in R.S. 15:587.1.

G. An educator meeting criteria for provisional reinstatement will be issued a certificate, appropriate to the credentials of the educator, and valid for a period of 90 days from the date of reinstatement. The provisional reinstatement is subject to the ratification of the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, certification will be suspended and revoked.

H. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional reinstatement and board ratification.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 42:17.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:2003 (November 2018), LR 44:2133 (December 2018), LR 45:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), June 9, 2019 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Certifications—Eligibility; Endorsements; and Suspension, Denial, and Revocation**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no fiscal implications for state or local governmental units related to the proposed revisions.

The proposed amendments will permit certification for an individual with a master's degree from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP); consolidate Sections outlining criminal offenses into one Section that will be referenced in various Parts of the *Louisiana Administrative Code*, Title 28; establish the process for certification relative to standards of effectiveness and the subsequent due process upon certification denial or suspension; and facilitate the issuance/reissuance of certification in limited instances and on a more timely basis, which is not restricted by the meeting schedule of BESE, with the addition of provisional issuance/reissuance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy revisions will permit ancillary counselor certification for an individual with a master's degree from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP). Holders of such a degree will benefit from the proposed revision.

Teachers who have been rated ineffective will be impacted by the proposed changes relative to reissuance of a suspended teaching certificate. Local governing authorities may now submit an appeal for a waiver of the effectiveness standards in addition to an evidence-based justification. However, the number of teachers impacted is not estimated to be material. In 2016-2017 less than 1% of all teachers evaluated were rated ineffective. Of those, 55% improved their ratings in the following year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1905#024

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Program  
Teacher Preparation Performance Profile Implementation Timeline (LAC 28:XLV.403 and 409)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Program*. The proposed amendments are related to the teacher preparation performance profile implementation timeline. They provide that the performance profiles for each approved preparation provider will be published beginning winter 2020-2021, instead of winter 2019-2020.

## Title 28 EDUCATION

### Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader

#### Preparation Programs

#### Chapter 4. Teacher Preparation Program Accountability and Renewal of Teacher Preparation Program Approval

#### §403. Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline

A. In accordance with LAC 28:XLV.101, beginning December 2017, the process for ongoing approval of teacher preparation programs will be replaced with a uniform process that applies equally to university and non-university providers.

B. Prior to fall 2018, the LDE will review this Chapter and recommend revisions to BESE as necessary and as based on findings from the design phase, and in consultation with the BOR and K-12 and higher education experts.

C. The 2017-2018 academic year will be a research phase for the teacher preparation quality rating system. Performance measures and processes will be piloted and studied. Evaluation tools, including a framework for on-site review, will be developed and reviewed by experts to ensure suitability for use in the teacher preparation quality ratings system. If produced, individual provider performance profiles will not be published.

D. Beginning with the 2018-2019 academic year, a provider that does not participate in the quality rating system or any component thereof will have approval terminated.

E. The 2018-2019 and the 2019-2020 academic years will be a learning phase for all BESE-approved teacher preparation providers. There will be no consequences for teacher preparation providers as a result of performance profiles or quality rating during the learning phase. Performance profiles for the 2018-2019 and 2019-2020 learning phase will be publicly available in 2020-2021 and will clearly indicate that the performance profile is informational and assigned during a learning phase.

F. The 2020-2021 academic year will be the first year of the initial two-year renewal cycle.

G. For providers that achieve initial approval after September 1, 2018, the renewal cycle will begin on September 1 of the year directly following BESE approval.

H. Beginning winter 2020-2021, the LDE will annually produce and make publicly available on its website a performance profile for each approved preparation provider. LDE will biennially produce and make publicly available on its website a quality rating for each approved preparation provider. The quality rating will not be used to make judgments about renewal of preparation program approval until winter 2022-2023.

I. Beginning with ratings assigned in winter 2022-2023, Louisiana teacher preparation quality rating system results will serve as the basis for preparation program renewal. The



renewal cycle will be two years. The renewal cycle will be four years for teacher preparation providers that receive a level 3 or higher, contingent upon maintaining a level 3 or higher as reported on the next performance profile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2488 (December 2017), amended LR 45:

#### **§409. Performance Profiles**

A. The LDE will develop and make publicly available a performance profile for each approved preparation provider beginning winter 2020-2021, and every winter thereafter. The performance profile will include a quality rating as provided for in LAC 28:XLV.405, including the scores and measures contributing to that quality rating, and informational metrics as provided for in LAC 28:XLV.411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2490 (December 2017), amended LR 45:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), June 9, 2019 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis

Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Program—Teacher Preparation Performance Profile Implementation Timeline**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs as a result of the proposed revisions.

The federal Higher Education Act requires states to implement an accountability system for teacher preparation programs. The law specifically requires states to identify low-performing teacher preparation programs and provide a list of such programs to the U.S. Department of Education.

In March 2019, the Board of Elementary and Secondary Education (BESE) directed the State Superintendent and Louisiana Department of Education (LDE) staff to convene a meeting with BESE members, BESE staff, Board of Regents (BoR) staff, the leadership of the Louisiana Association of

Colleges for Teacher Education (LACTE), and other relevant program provider stakeholders to determine the appropriate timing for reporting of teacher and/or educational leader preparation program performance.

The proposed revisions are related to the teacher preparation performance profile implementation timeline.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of these revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1905#023

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Regents  
Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS Exceptions  
(LAC 28:IV.301, 803, 1501, 1507, 1903 and 2103)

The Louisiana Board of Regents announces its intention to amend the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking removes references to program year as it relates to the GO Youth Challenge Training Program. It also provides for additional objective TOPS exceptions that have been approved repeatedly by the Board of Regents as exceptional circumstances, and it clarifies certain factors that are not considered exceptional circumstances. (SG19186NI)

**Title 28**

**EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa. The term “the board” refers to the Louisiana Board of Regents.

\* \* \*

*Selective Enrollment Program*—a course of study with competitive admissions based on a student's qualifications including successful completion of required college courses and a minimum college cumulative grade point average. Examples of selective enrollment programs include, but are not limited to, medical technology, nursing, occupational therapy, physical therapy, and radiation technology.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1880 (November 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:486 (March 2018), LR 45:

**Chapter 8. TOPS-Tech Award**

**§803. Establishing Eligibility**

A. - A.6.c. ...

7. have achieved an *ACT score*, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17 or beginning with the 2010-2011 academic year, or in the alternative, have attained a silver level score on the assessments of the ACT WorkKeys system; or

A.7.b.i. - B.4.b.ii. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:2597 (December 2015), LR 42:48 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:523 (March 2018), amended LR 44:1874 (October 2018), LR 45:

## **Chapter 15. Grant Opportunity for Youth ChalleNge Skills Training Program**

### **§1501. General Provisions**

A. - E.2. ...

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two academic years in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;
2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See §1903.B.8 for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable.

*Certification*—the time at which LOSFA has received both the certification from the State Military Department and the results of the FAFSA data from the federal processor.

*FAFSA*—the free application for federal student aid used to apply for federal grant aid and eligibility for other federal assistance.

*Graduate*—a student who has completed the Louisiana GO-Youth ChalleNge Program and, no later than 18 months after entry into the program, received a Louisiana high school equivalency diploma.

*Program*—the GO-Youth ChalleNge Program.

*Resident of Louisiana*—a student who actually resides in Louisiana during the 24 months prior to the month the student enrolls for the first time as a full-time student in an eligible institution as a recipient of a grant under the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:545 (March 2018), LR 45:

### **§1507. Maintaining Eligibility**

A. To continue receiving the program grant, the student must meet all of the following criteria:

1. have received the program grant for not more than two years, unless granted an exception for cause; and
2. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions unless required by the institution for a particular course of study) as a full-time student, unless granted an exception for cause; and
3. maintain steady academic progress as defined in §301; and
4. earn at least 24 hours each academic year as defined in §301, unless granted an exception for cause; and
5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each academic year ; and
6. not have a criminal conviction, except for misdemeanor traffic violations; and
7. if the student has been in the United States Armed Forces and has separated from such service, has received an

honorable discharge or general discharge under honorable conditions; and

8. submit a FAFSA or renewal FAFSA for each academic year during which the student is enrolled in a postsecondary institution.

B. Students failing to meet the requirements listed in §1507.A.3 and 5 may have their tuition grants reinstated upon regaining steady academic progress (see §301) and/or attainment of the required GPA, if the student has maintained other continuation requirements and the period of ineligibility did not persist for more than one year from the date of loss of eligibility. If the one-year period is interrupted due to a student's active duty in the United States Armed Forces, the one-year period will be extended for the length of time equal to the student's active-duty service, not to exceed four years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:546 (March 2018), LR 45:

## **Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

### **§1903. Responsibilities of Post-Secondary Institutions**

A. - B.8. ...

9. upon the school's certification that a recipient of a GO-Youth ChalleNge Program Grant is enrolled full-time, institutions shall bill for and the board will reimburse the institution for each such recipient as follows:

- a. eligible public community colleges and Louisiana Technical College may bill for an amount up to the tuition for that institution, as defined in §301; and
- b. regionally-accredited independent colleges or universities in the state that are members of LAICU may bill up to an amount equal to the award amount authorized for TOPS-Tech students attending LAICU institutions during the academic year;

B.10 - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 43:519 (March 2017), LR 44:557 (March 2018), LR 45:

## **Chapter 21. Miscellaneous Provisions and Exceptions**

### **§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - C.3.b. ...

**D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement**

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court-ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

a. Through the 2000-2001 academic year (TOPS), the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement.

b. Commencing with the 2001-2002 academic year (TOPS), the student must submit the application for exception no later than six months after the date of the notice of cancellation, except as follows:

i. A returning student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705.

ii. Beginning with the 2019-2020 academic year, the deadline for a student who submits a request for exception based on military service shall be six months after his discharge from continuous active duty status.

2. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible by LOSFA for an exception provided in §2103.E.11.a.ii, recipient may appeal in accordance with §2109 of these rules.

**E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement.** A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

**1. Parental Leave**

a. **Definition.** The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. **Certification Requirements.** The student/recipient must submit:

i. a completed exception request form; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption; and

iii. if the student requesting the exception is not the custodial parent of the child, the student must provide documentation of adoption/custodianship as well as documentation evidencing that the student was assisting in the care of the child, which may include, but not be limited

to, a letter from the custodial parent confirming that care was provided by the student, evidence of child support payments made, and/or evidence of bills paid by the requesting student for the benefit of the child.

c. **Maximum length of exception**—up to the equivalent of one academic year (college) per pregnancy.

**2. Physical Rehabilitation Program**

a. **Definition.** The student/recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. **Certification Requirements.** The student/recipient must submit:

i. a completed exception request form including the reason for the rehabilitation, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

ii. a written statement from a qualified medical professional confirming the student/recipient's rehabilitation, and the beginning and ending dates of the rehabilitation.

c. **Maximum length of exception**—up to four consecutive semesters (six consecutive quarters) per occurrence.

**3. Substance Abuse Rehabilitation Program**

a. **Definition.** The student/recipient is receiving rehabilitation in a substance abuse program.

b. **Certification Requirements.** The student/recipient must submit:

i. a completed exception request form, the reason for the rehabilitation, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

ii. a written statement from a qualified professional or from the director of a substance abuse rehabilitation facility confirming the student's rehabilitation and the beginning and ending dates of the rehabilitation.

c. **Maximum length of exception**—up to two consecutive semesters (three consecutive quarters). This exception shall be available to a student only one time.

**4.a. Temporary Disability—Student**

i. **Definition.** The student/recipient is recovering from an accident, injury, illness or required surgery.

ii. **Certification Requirements.** The student/recipient must submit:

(a). a completed exception request form, the reason for the disability, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

(b). a written statement from a qualified professional if a medical disability or from a qualified professional or a clergyman if a mental disability certifying the existence of a temporary disability, the dates of treatment, and opinions as to the impact of the disability on the student's ability to attend school.

iii. **Maximum length of exception**—up to two full academic years.

b. **Temporary Disability—Student/Recipient's Care of Immediate Family Member**

i.(a). Definition. The student/recipient is providing continuous care to his/her immediate family member due to an accident, illness, injury or required surgery.

(b). An immediate family member is his/her spouse, dependent, parent, stepparent, custodian, or grandparent.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form, the reason for the disability, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

(b). a written statement from a qualified professional of the existence of a temporary disability of the immediate family member, and the beginning and ending dates of the doctor's care; and

(c). a statement from a family member or a qualified professional confirming the care given by the student.

iii. Maximum length of exception—up to a maximum of two consecutive semesters (three consecutive quarters).

#### 5. Permanent Disability

a. Definition. The student/recipient is permanently disabled in a manner that prevents the student from attending classes on a full-time basis.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form, a description of the disability, the reason for the disability, the reason(s) the disability restricts class attendance to less than full-time; and

ii. a written statement from a qualified professional stating the diagnosis of and prognosis for the disability, stating that the disability is permanent, and opening why the disability restricts the student/recipient from attending classes full-time.

c. Maximum length of exception—up to the equivalent of eight full-time semesters of post-secondary education in part-time semesters.

#### 6. Exceptional Educational Opportunity

a. Definition. The student/recipient is enrolled in an internship, residency, cooperative work, or work/study program or a similar program that is related to the student's major or otherwise has an opportunity not specifically sponsored by the school attended by the student that, in the opinion of the student's academic dean or director of the student's program of study, will enhance the student's education. Participation in one of the programs does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form; and

ii. a written statement from the college/school official that the applicant is a student at the school/college and that the program is offered or sponsored by the college/school, or a statement from the dean of the college or the dean's designee or from the Director of the student's program of study that the program is related to the student's major and will enhance the student's education. The

statements must include the dates of leave of absence, the semester(s) involved, the beginning and ending dates of the program.

c. Maximum length of exception—up to four semesters (six consecutive quarters) or required program of study.

#### 7. Religious Commitment

a. Definition. The student/recipient is a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of the religious obligation; and

ii. a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum length of exception—up to five consecutive semesters (eight consecutive quarters).

#### 8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, custodian, dependent, sister or brother, step sibling, grandparent or step grandparent dies.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form; and

ii. a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper; and

iii. if the name of the deceased has a different last name than the student, a letter from a member of the student's family verifying the relationship between the student and the deceased, provided that if the student provides an obituary which names the student and specifies the relationship between the deceased and the student, a letter from a member of the student's family is not required.

c. Maximum length of exception—up to one semester or two quarters per death.

#### 9.a. Military Service—Student

i. Definition. The student/recipient is in the United States Armed Forces Reserves or National Guard and is called on active duty status or is performing emergency state service with the National Guard or enlists or reenlists and enters on active duty as a member of the regular United States Armed Forces.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates); and

(b). a written certification from the military including the dates and location of active duty; or

(c). a copy of the military orders or other military documents confirming military service.

iv. Maximum length of exception—up to the length of the required active-duty service period.

#### 9.b. Military Service—Spouse

i. Definition. The student/recipient's spouse is in the United States Armed Forces Reserves or National Guard and is called on active duty status or is performing emergency state service with the National Guard or enlists or reenlists and enters on active duty as a member of the regular United States Armed Forces.

ii. Certification Requirements. The student/recipient must submit:

iii. a completed exception request form, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates); and

(a). a copy of the student's marriage license;

(b). a written certification from the military including the dates and location of active duty of the student/recipient's spouse; or

(c). a copy of the military orders or other military documents confirming the military service of the student/recipient's spouse.

c. Maximum length of exception—up to two consecutive semesters.

#### 10. Transfer—Selective Enrollment Program

a. Definition. A student/recipient who completed his or her program requirements for transfer to a selective enrollment program.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form; and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient has or will complete his or her course requirements for transfer to a selective enrollment program and the timing of completion of those course requirements.

c. Maximum length of exception—two consecutive semesters or three consecutive quarters.

#### 11. Unavailability of Courses

a. Definition. The student/recipient is unable to enroll full-time due to the advanced coursework required, the necessity of earning credits in pre-requisites before moving on to the next block of courses, and/or the unavailability of courses due to limited course offerings.

b. Certification Requirements. The student/recipient has earned credit for at least 75% of the courses required to complete of his degree, and he must submit:

i. a completed exception request form, including college transcripts, a description of his major, the total hours required to graduate, the structure of courses, and an explanation as to why he is unable to enroll full time; and

ii. a letter from his academic counselor or from his academic dean or director of his program of study explaining the course structure and certifying that the student has earned credit for at least 75 percent of the courses required to complete his degree and that he was unable to enroll full time due to this structure.

#### 12. Natural Disaster

a. Definition. The student/recipient is unable to enroll in school, to maintain continuous enrollment in school, or to earn the required annual hours due to the fact that he or his family lives in a region of the state of

Louisiana that is declared a natural disaster by the Governor of the state.

b. Certification Requirements. The student/recipient must submit:

i. A completion exception request form;

ii. A written statement detailing the natural disaster's impact on the student and/or the student's immediate family (mother, father, custodian, siblings and/or spouse and children), which prevented the student from meeting the continuation requirements, including the length of the impact; and

iii. Documentation corroborating the student's statement (examples: photographs of damage; insurance, FEMA, fire and/or police reports; statements from public officials; statements from family members or other persons with actual knowledge; receipts and invoices for work done and materials purchased; a copy of a lease and statement from lessor regarding the impact of the flood; etc.).

iii. Maximum length of exception—up to two consecutive semesters (three consecutive quarters).

#### 13. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in an eligible postsecondary institution.

i. The following situations are not exceptional circumstances:

(a). financial conditions related to a student's ability to meet his or her educational expenses are not a justified reason for failure to meet the hours or continuous enrollment requirement, because TOPS is a merit, rather than need-based award, except that the student's family's financial condition may be considered, provided that the student provides documentation that he has been required to obtain employment in order to supplement the family's income due to unexpected circumstances which has adversely affected the family's finances;

(b). dropping a course, failing a course, or withdrawing from school to protect the student's grade point average or because of difficulty with a course or difficulty arranging tutoring;

(c). not being aware of or understanding the requirements;

(d). assumption that advanced standing, or correspondence course work credited outside the academic year would be applied to the hours requirement;

(e). differing scholarship or award requirements for other programs, such as NCAA full-time enrollment requirements;

(f). voluntary withdrawal from school to move out-of-state or pursue other interests or activities;

(g). claims of receipt of advice that is contrary to these rules, public information promulgated by LOSFA, award letters, and the rights and responsibilities document that detail the requirements for full-time continuous enrollment. This provision shall not preclude an exception being granted when an academic counselor or academic dean confirms, in writing, that the student acted as a direct result of misinformation provided by the counselor, dean, or other college official;

(h). failure to provide or respond to a request for documentation within 30 days of the date of the request, unless additional time is requested in writing, LOSFA grants the request, and the requested documentation is provided within the additional time granted;

(i). an involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations;

(j). a suspension or expulsion for misconduct;

(k). an inability to register because of failure to satisfy financial obligations.

ii. All other situations will be assessed at the discretion of LOSFA and subject to appeal to the board.

b. **Certification Requirement.** Submit a completed exception request form including a sworn affidavit from the student detailing the circumstances and including the official college transcripts and documentation necessary to support the request for reinstatement.

c. **Maximum length of exception—up to the number of semesters or quarters determined to be supported by the request for exception and accompanying documentation.**

F. - G.5.b.iii. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

**HISTORICAL NOTE:** Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (SG19186NI) until 4:30 p.m., May 10, 2019, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Scholarship/Grant Programs TOPS Exceptions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any costs or savings to state or local governmental units.

The proposed revisions make technical changes to the TOPS exception process and the Go Youth Challenge programs. Additionally, the proposed rule changes codify current practices related to the TOPS exceptions process to add repeatedly approved exceptions in specific areas to the objective basis exception list subject to LOSFA staff approval instead of the more subjective Exceptional Circumstances Exception that requires Board of Regents approval.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will have no effect on state or local governmental revenues.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed changes will reduce the time period for disposition of some student exception requests.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will not affect competition and employment.

Robyn Rhea Lively  
Senior Attorney  
1905#019

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Regents Office of Student Financial Assistance**

START Saving Program  
(LAC 28:VI.309, 315, and 715)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking adds the applicable interest rates for the START Saving Program for the 2018 calendar year. It also amends the Louisiana START Saving Program Rules and the START K12 Program rules to delete the requirement that account owners provide their social security number and the beneficiary's social security number when requesting a disbursement. (ST19185NI)

#### **Title 28**

#### **EDUCATION**

#### **Part VI. Student Financial Assistance—Higher Education Savings**

#### **Chapter 3. Education Savings Account**

#### **§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary**

A. - A.1.a. ...

2. The request for disbursement must include:

a. the START account number;

b. the account owner's name, address, and signature (may be electronic);

- c. the beneficiary's name and address;
- d. the amount to be disbursed and to whom;
- e. the name and address of the eligible educational institution.

A.3. E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 42:1079 (July 2016), LR 45:

### **§315. Miscellaneous Provisions**

A. - B.38. ...

39. For the year ending December 31, 2018, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.75 percent.

40. For the year ending December 31, 2018, the Savings Enhancement Fund earned an interest rate of 1.75 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:

### **Chapter 7. START K12**

#### **§715. Disbursement of Account Funds for Payment of Qualified Education Expenses of a Beneficiary**

A. - A.1. ...

- 2. The request for disbursement must include:
  - a. the START K12 account number;
  - b. the account owner's name, address, and signature (may be electronic);
  - c. the beneficiary's name, address, and Social Security number;
  - d. the amount to be disbursed and to whom; and
  - e. the name and address of the eligible educational institution.

A.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3100.1 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 44:1883 (October 2018), amended LR 45:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (SG19186NI) until 4:30 p.m., May 10, 2019, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: START Saving Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any costs or savings to state or local governmental units.

The proposed rule changes codify the actual earnings realized on Student Tuition Assistance and Revenue Trust (START) Saving Program accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2018 calendar year and make a technical change to delete the requirement to include a social security number (SSN) on START disbursement requests.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will increase the earnings of START account holders by providing additional interest earnings. The proposed rule changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2018 as a result of START account holders earning a higher interest rate than in the previous year. As determined by the State Treasurer, the interest rate earned for the 2018 calendar year by the Louisiana Education Tuition and Savings Fund was 1.75%, and by the Savings Enhancements Fund was 1.75%. These additional investment earnings are the property of the account owners.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will not affect competition and employment.

Robyn Rhea Lively  
Senior Attorney  
1905#018

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office



## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

#### Incorporating Test Results (LAC 33:III.523 and 537)(AQ382)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.523.A and LAC 33:III.537.A (AQ382).

This Rule amends Louisiana General Condition I to 1.) specify that if testing reveals emissions are greater than those allowed by a permit, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results; 2.) clarify that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations; and 3.) reaffirm that noncompliance with any term or condition of a permit constitutes a violation and is grounds for enforcement action.

This Rule also aligns the deadline to submit an application to modify a permit where required by LAC 33:III.523.A with that proposed for Louisiana General Condition I (i.e., 90 days after the permittee receives the final test results.)

Louisiana General Condition I of LAC 33:III.537.A requires a permittee to submit an application to modify its permit if “emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency.” However, General Condition I is silent with respect to when any such application must be submitted. This Rule will specify that the application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results.

In addition, this Rule clarifies that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations. However, neither the submittal of an application to modify the permit nor the reporting of excess emissions precludes the department from taking appropriate enforcement action, as noncompliance with any term or condition of a permit constitutes a violation of LAC 33:III.Chapter 5, the Louisiana Environmental Quality Act, and, if the term or condition is federally enforceable, the Clean Air Act. See, for example, LAC 33:III.501.C.4, LAC 33:III.507.B.2, and Louisiana General Condition II of LAC 33:III.537.A.

A similar provision, LAC 33:III.523.A, also addresses the incorporation of test results into a permit where such results indicate that the terms and conditions of the permit are inappropriate or inaccurate, but only where the testing is “required or approved by the permitting authority.” In order

to maintain consistency with General Condition I, LAC 33:III.523.A will be amended to require the requisite permit amendment or modification to be submitted within 90 days of obtaining the relevant test results. The basis and rationale for this Rule are to amend Louisiana General Condition I as described above and to align the deadline to submit an application to modify a permit where required by LAC 33:III.523.A with that proposed for Louisiana General Condition I (i.e., 90 days after the permittee receives the final test results.) This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 5. Permit Procedures

##### §523. Procedures for Incorporating Test Results

A. Permit Amendments or Modifications. The owner or operator of any facility permitted under this Chapter shall request a permit amendment or modification to reflect the results of any testing required or approved by the permitting authority, if such testing demonstrates that the terms and conditions of the existing permit are inappropriate or inaccurate. The request, together with all information necessary to process such request, shall be submitted within 90 days of obtaining the relevant test results.

A.1. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008), LR 37:1146 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

##### §537. Louisiana General Conditions

A. The Louisiana general conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana general conditions shall supersede any previous versions of such conditions contained in air permits.

**Table 1. Louisiana Air Emission Permit General Conditions**

I. Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment, during a performance test, or during testing conducted for any other purpose) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results. Discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition, as defined in LAC 33:I.3905.A and the permittee reports the excess emissions in accordance with LAC 33:I.Chapter 39,
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Table 1. Louisiana Air Emission Permit General Conditions	
Part 70 General Condition R of LAC 33:III.535, Louisiana General Condition XI of LAC 33:III.537, LAC 33:III.919, and LAC 33:III.5107, as applicable. Noncompliance with any term or condition of the permit shall constitute a violation of LAC 33:III.501 and shall be grounds for enforcement action. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.	
II. - XX. ...	***

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009), amended LR 37:1146 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2750, 2769 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

### Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ382. Such comments must be received no later than July 4, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ382. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

### Public Hearing

A public hearing will be held on June 27, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street,

Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Incorporating Test Results

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the Department of Environmental Quality (DEQ) or local governmental units. The proposed rule change specifies that if a performance test, or testing conducted for any other purpose reveals the discovery of excess emissions that are greater than those allowed by a permit, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results. Furthermore, the proposed change specifies that the discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition, and that noncompliance with any term or condition of the permit shall constitute a violation and shall be grounds for enforcement action.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local governmental units as a result of the proposed rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

All owners or operators of facilities that require an air permit will be directly affected by the proposed action. However, because the proposed action only serves to establish the due date for the application already required by General Condition I (if emissions are determined to be greater than the permit allows), there will be no costs, including workload adjustments or additional paperwork, or economic benefits as a result of the proposed rule.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will have no impact on competition or employment.

Herman Robinson  
General Counsel  
1905#026

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

#### Regulatory Permit for Boilers and Process Heaters (LAC 33:III.323)(AQ383)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.323 (AQ383).

This Rule will establish a regulatory permit which can be used to authorize the construction and operation of certain boilers and process heaters. Authorization to construct and operate a boiler or process heater eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete.

R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a rule.

Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019. Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rationale for this Rule are to establish a regulatory permit for boilers and process heaters. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33 ENVIRONMENTAL QUALITY Part III. Air

### Chapter 3. Regulatory Permits

#### §323. Regulatory Permit for Boilers and Process Heaters

##### A. Applicability

1. This regulatory permit authorizes the construction and use of boilers and process heaters, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection I of this Section has been determined to be complete.

2. This regulatory permit shall not apply to boilers and process heaters:

a. deemed insignificant in accordance with item A.1, A.5, or B.32 of the insignificant activities list in LAC 33:III.501.B.5.Table 1;

b. that combust fuels other than natural gas, refinery gas, *other gas 1 fuel* as defined in 40 CFR 63.7575, or *ultra low sulfur liquid fuel* as defined in 40 CFR 63.7575; or

c. subject to federal regulations not identified in Subsection D of this Section.

3. This regulatory permit shall not be used to authorize a boiler or process heater that, when considering potential emissions from it and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

##### B. Definitions

*Boiler*—as defined in 40 CFR 63.7575.

*Process Heater*—as defined in 40 CFR 63.7575.

##### C. Emission Limitations

1. Emission limitations for the boiler or process heater shall be established by the application (i.e., notification form) submitted in accordance with Subsection I of this Section.

a. The limitations shall be enforceable by the department.

b. If actual emissions exceed these limitations for any reason other than as described in LAC 33:III.501.C.12, the permittee shall notify the Office of Environmental Compliance in accordance with Louisiana General Condition XI of LAC 33:III.537.A. For Part 70 sources, the reports required by Paragraph C.2 of this Section shall satisfy this requirement.

2. The permittee shall address each boiler or process heater located at a Part 70 source in the submittals required by Part 70 General Conditions K, M, and R of LAC 33:III.535.A. Deviations from the terms and conditions of this regulatory permit, including the standards identified in Subsection D of this Section, shall not be considered violations of the stationary source's Part 70 permit.

D. Boiler and Process Heater Standards. The permittee shall comply with the provisions of the following federal and state regulations pertaining to boilers and process heaters, as applicable:

1. LAC 33:III.2201;
2. 40 CFR 60, subpart Db or Dc; and/or
3. 40 CFR 63, subparts DDDDD or JJJJJJ.

##### E. Opacity

1. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

##### 2. Monitoring, Recordkeeping, and Reporting

a. The permittee shall inspect each boiler or process heater's stack for visible emissions on a daily basis. If visible emissions are not detected during the initial six minutes of the inspection, the inspection may be concluded. If visible emissions are detected, the inspection period shall be extended to one hour (60 consecutive minutes).

b. If visible emissions are detected for more than one six-minute period over the 60 consecutive minute test period, the permittee shall conduct a six-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, within 24 hours.

c. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity or, for *Part 70 sources*, as defined in LAC 33:III.502.A, in accordance with Part 70 General Condition R of LAC 33:III.535.A.

d. Records of visible emissions checks shall be kept on-site and available for inspection by the Office of Environmental Compliance. These records shall include:

- i. the boiler or process heater's ID number;
- ii. a record if visible emissions were detected during the initial six minutes of the inspection;
- iii. a record if visible emissions were detected for more than one six-minute period over the 60 consecutive minute test period, if required; and
- iv. a record and the results of any Method 9 testing conducted.

3. Alternatives. As an alternative to the requirement to conduct Method 9 testing, the permittee may assume that any visible emissions detected constitute opacity greater than

20 percent. In this case, no visible emissions detected shall be considered opacity less than or equal to 20 percent, even if a qualitative assessment suggests otherwise. The permittee may also determine opacity via any federally-approved alternative to Method 9 (e.g., Method ALT-082). In lieu of performing daily visual inspections, the permittee may immediately perform a six-minute opacity reading in accordance with Method 9.

4. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection shall not apply.

5. This Subsection shall not apply to boilers or process heaters described in LAC 33:III.1107.B.1.

F. Particulate Matter. No person shall cause, suffer, allow or permit the emission of particulate matter to the atmosphere in excess of 0.6 pounds per 10<sup>6</sup> Btu of heat input.

G. Performance Testing. The following performance testing requirements shall apply to boilers and process heaters that have the potential to emit more than 40 tons per year of nitrogen oxides (NO<sub>x</sub>) or more than 100 tons per year of carbon monoxide (CO).

1. No later than 180 days after the boiler or process heater commences operation, the permittee shall conduct a performance test to determine NO<sub>x</sub> and CO emissions using Methods 7E (Determination of Nitrogen Oxides Emissions from Stationary Sources) and 10 (Determination of Carbon Monoxide Emissions from Stationary Sources) of 40 CFR 60, Appendix A. Each test run shall be conducted within 80 percent of the boiler or process heater's maximum rated capacity or within 10 percent of the maximum achievable load. Alternate stack test methods may be used with the prior approval of the Office of Environmental Assessment.

a. The permittee shall notify the Office of Environmental Assessment at least 30 days prior to the performance test in order to provide the department with the opportunity to conduct a pretest meeting and/or observe the test.

b. The permittee shall submit the performance test results to the Office of Environmental Assessment no later than 60 days after completion of the test.

2. This Subsection shall not apply to boilers or process heaters that remain at a stationary source for less than 12 consecutive months.

H. Emissions Inventory. Each stationary source subject to LAC 33:III.919 shall include emissions from each boiler or process heater authorized by this regulatory permit in its annual emissions inventory.

#### I. Notification Requirements

1. Written notification describing the boiler or process heater shall be submitted to the Office of Environmental Services using the appropriate form provided by the department.

2. A separate notification shall be submitted for each boiler or process heater.

J. Fees. Fees for this regulatory permit shall be as prescribed by fee number 1540 or 1550, as applicable, of LAC 33:III.223, Table 1, or the applicable major or minor modification fee for the stationary source as determined in

accordance with LAC 33:III.211.B, whichever is lower. Applicable surcharges as described in LAC 33:III.211.A shall also be assessed.

K. Boilers and process heaters authorized by this regulatory permit shall be included in the next application to renew or modify the stationary source's existing permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

#### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

#### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ383. Such comments must be received no later than July 4, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [DEQ.Reg.Dev.Comments@la.gov](mailto:DEQ.Reg.Dev.Comments@la.gov). Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ383. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### Public Hearing

A public hearing will be held on June 27, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Regulatory Permit  
for Boilers and Process Heaters**

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings to the Department of Environmental Quality (DEQ) or local governmental units as a result of the proposed rule. The proposed rule establishes a regulatory permit to authorize the construction and use of boilers and process heaters, upon notification by the department that the application is submitted has been determined to be complete. It establishes emissions limitations for the boiler or process heater by the application submitted that are enforceable by the department, and if actual emissions exceed these limitations, the permittee shall notify the Office of Environmental Compliance. In addition, the proposed rule sets opacity limits and requires the permittee to inspect each boiler or process heater's stack for visible emissions on a daily basis. The proposed rule also sets performance testing requirements that shall apply to boilers and process heaters that have the potential to emit more than 40 tons per year of nitrogen oxides or more than 100 tons per year of carbon monoxide. The performance testing requirements do not apply to boilers or process heaters that remain at a stationary source for less than 12 consecutive months. Fees for this regulatory permit shall be as prescribed as applicable.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

No increase or decrease in revenues to state or local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee is equivalent to, and in place of, that which would have been required had a permit or permit modification been applied for pursuant to LAC 33:III.501.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no anticipated costs to directly affected persons or non-governmental groups. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." However, this notification form will be specifically tailored to the source addressed by the regulatory permit (i.e., boilers and process heaters) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to boilers and process heaters should also facilitate the department's review of such documents. Thus, a final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule

Herman Robinson  
General Counsel  
1904#027

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**Regulatory Permit for Cooling Towers  
(LAC 33:III.325)(AQ384)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the air regulations, LAC 33:III.325 (AQ384).

This Rule will establish a regulatory permit which can be used to authorize the construction and operation of certain cooling towers. Authorization to construct and operate a cooling tower eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete.

R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a rule.

Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). This basis and rationale for this Rule are to establish a regulatory permit for cooling towers. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 3. Regulatory Permits**

**§325. Regulatory Permit for Cooling Towers**

**A. Applicability**

1. This regulatory permit authorizes the construction and use of cooling towers, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection G of this Section has been determined to be complete.

2. This regulatory permit shall not apply to cooling towers:

a. deemed insignificant in accordance with item A.12 of the insignificant activities list in LAC 33:III.501.B.5.Table 1;

b. subject to federal regulations not identified in Subsection D of this Section.

3. This regulatory permit shall not be used to authorize a cooling tower that, when considering potential emissions from it and potential emissions from the

remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

#### B. Definitions

*Cooling Tower*—an open water recirculating device that uses fans or natural draft to draw or force ambient air through the device to cool warm water by direct contact.

#### C. Emission Limitations

1. Emission limitations for the cooling tower shall be established by the application (i.e., notification form) submitted in accordance with Subsection G of this Section.

a. The limitations shall be enforceable by the department.

b. If actual emissions exceed these limitations for any reason other than as described in LAC 33:III.501.C.12, the permittee shall notify the Office of Environmental Compliance in accordance with Louisiana General Condition XI of LAC 33:III.537.A. For Part 70 sources, the reports required by Paragraph C.2 of this Section shall satisfy this requirement.

2. The permittee shall address each cooling tower located at a Part 70 source in the submittals required by Part 70 General Conditions K, M, and R of LAC 33:III.535.A. Deviations from the terms and conditions of this regulatory permit, including the standards identified in Subsection D of this Section, shall not be considered violations of the stationary source's Part 70 permit.

D. Cooling Tower Standards. The permittee shall comply with the provisions of 40 CFR 63, subparts F, U, CC, XX, JJJ, OOO, PPP, FFFF, HHHHH, VVVVVV, or HHHHHHH, as applicable.

E. Total dissolved solids (TDS). The permittee shall determine and record the concentration of TDS in the cooling water at least once per quarter using Standard Method 2540C or EPA Method 160.1. Alternate methods may be used with the prior approval of the department. The permittee shall average all recorded TDS concentrations and utilize the drift rate provided by the manufacturer and the design recirculation rate of the cooling water pump(s) to determine compliance with the emission limitations for the cooling tower.

F. Emissions Inventory. Each stationary source subject to LAC 33:III.919 shall include emissions from each cooling tower authorized by this regulatory permit in its annual emissions inventory.

#### G. Notification Requirements

1. Written notification describing the cooling tower shall be submitted to the Office of Environmental Services using the appropriate form provided by the department.

2. A separate notification shall be submitted for each cooling tower.

H. Fees. Fees for this regulatory permit shall be the applicable major or minor modification fee for the stationary source as determined in accordance with LAC 33:III.211.B. Applicable surcharges as described in LAC 33:III.211.A shall also be assessed.

I. Cooling towers authorized by this regulatory permit shall be included in the next application to renew or modify the stationary source's existing permit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ384. Such comments must be received no later than July 4, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [DEQ.Reg.Dev.Comments@la.gov](mailto:DEQ.Reg.Dev.Comments@la.gov). Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ384. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### **Public Hearing**

A public hearing will be held on June 27, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson  
General Counsel

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Regulatory Permit for Cooling Towers**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs or savings to the Department of Environmental Quality (DEQ) or local governmental units as a result of the proposed rule. The proposed rule establishes a regulatory permit to authorize the construction and use of cooling towers, upon notification by the

department that the application submitted has been determined to be complete. It establishes emissions limitations for cooling towers that are enforceable by the department, and if emissions exceed these limitations for any reason, the permittee shall notify the Office of Environmental Compliance. The permittee determines and records the concentrations of total dissolved solids (TDS) in the cooling water at least once per quarter using prescribed methods; however, alternate methods may be used with the prior approval of the department. In addition, the permit mandates that each stationary source shall include emissions from each cooling tower in its annual emissions inventory. Fees for this regulatory permit shall be the applicable major or minor modification fee for the stationary source.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No increase or decrease in revenues to state or local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee is equivalent to, and in place of, that which would have been required had a permit or permit modification been applied for pursuant to LAC 33:III.501.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no anticipated costs to directly affected persons or non-governmental groups. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." However, this notification form will be specifically tailored to the source addressed by the regulatory permit (i.e., cooling towers) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to cooling towers should also facilitate the department's review of such documents. Thus, a final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson  
General Counsel  
1905#028

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Board of Pardons**

Clemency and Parole (LAC 22:V.205 and  
XI.504, 701, 705, 707, 1101, 1103, and 1105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and Parole hereby gives notice of its intent to amend its rules of LAC 22:V.205. To address changes to RS 15:572.4 this rule change establishes a system to handle clemency applications to open at the end of a gubernatorial term. LAC 22: XI: 504, 701, 705, 707, 1101, 1103, 1105 and 1109. Expands the ability to rescind parole decisions and grant rehearing. Expanded board discretion dealing with the consideration of

offenders with disciplinary issues who would generally not be considered a good risk for early release. Employment plan is no longer a mandatory part of the parole plan or interstate compact application, although they will still be considered by the board if submitted. New felony convictions moving forward will result in an automatic revocation. The use of violation reports has been discontinued and it has been replaced by the activity report.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part V. Board of Pardons**

**Chapter 2. Clemency**

**§205. Application Filing Procedures**

A. - C. ...

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. When no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

i. Upon receipt of the no action files from the Governor's office, the parole board staff shall review the following:

a. offender's disciplinary record; and

b. State Police rap sheet;

ii. Staff will use the updated information to determine if the applicant is still eligible to apply for clemency.

iii. Once approved, the file will be sent back to the governor's office within six months of being received, with a

recommendation to the governor from the pardon board, signed by the board chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:1161 (June 2017), LR 45:

## **Part XI. Committee on Parole**

### **Chapter 5. Meetings and Hearings of the Committee on Parole**

#### **§504. General Procedures**

##### **A. Minutes of Public Meetings and Hearings**

1. At public meetings and hearings, detailed minutes indicating time of commencement, persons present, adoption of previous minutes, motions and seconds, and time of adjournment shall be recorded and maintained by the board staff member so designated by the chairman.

2. The board's minutes of public meetings and hearings shall include the following information as applicable:

a. name and Department of Corrections (DOC) number of the offender;

b. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);

c. the vote of each member; and

d. the decision of the board

##### **B. Votes**

1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.L, §513.A.1-3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

##### **K. Rescinding Board Decisions**

1. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the offender shall promptly receive another parole hearing.

2. If it is determined prior to an offender's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

3. If the board rescinds its decision to grant parole, the offender shall promptly receive another parole hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:

### **Chapter 7. Parole Decisions**

#### **§701. Policy Statement**

A. It shall be the policy of the committee to give every offender meaningful consideration for parole. The committee will exercise its discretionary releasing authority based upon consideration of the unique factors and variables of the individual case. The committee shall determine release suitability of eligible offenders through decisions that promote fairness, objectivity, and public safety and are responsive to the concerns of victims, members of the community, and other persons within the criminal justice system.

B. The committee shall consider all pertinent information (pre-parole investigation and institutional record) at least six months prior to the offender's parole eligibility date. The information shall be a part of the offender's consolidated summary record. At a minimum, a pre-parole investigation shall be made available to the panel for its review. No case may be considered for parole release without a pre-parole investigation.

C. The panel shall apply the following guidelines as a basis, but not as the exclusive criteria, upon which parole panels base parole release decisions.

##### **1. Nature and Circumstances of the Crime**

a. The committee will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and offender's versions of



the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The committee shall also consider the seriousness of the offense, the offender's role in the offense and the degree of his involvement, whether the offender was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim; where the offender committed one or more violent acts indicating a conscious disregard for the lives, safety, or property of others; or the instant offense has elements of brutality, violence, or conscious selection of victim's vulnerability such that the offender poses a continuing threat to public safety.

## 2. Prior Criminal Record

a. The committee will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the offender's prior criminal history.

b. A pattern of repeated criminal episodes or a pattern of similar offenses may indicate a predisposition to commit criminal acts upon release and the likelihood that the offender will not succeed on parole.

c. The committee may also consider whether the instant offense was committed while the offender was on probation or parole, and the offender's response to prior community supervision, if any.

## 3. Character, Social Background, and Emotional and Physical Condition

a. The committee will evaluate and consider information pertaining to the offender's work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the offender will not succeed on parole.

## 4. Institutional Adjustment

a. The committee will evaluate and consider information concerning the offender's attitude while incarcerated, including the offender's participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may evidence that the offender will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. Offenders with one or more high court disciplinary report(s) in the 12 months prior to screening for parole eligibility, would generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the offender has been disciplinary report free for 12 consecutive months. Offenders may be removed from a parole docket if they receive a high court disciplinary report during the investigation period.

i. The offender may request reconsideration of this decision in writing. Such request must include any mitigating factors that the offender wishes be considered during the review process.

ii. The offender will be notified if they are not considered for placement on or removed from a docket.

iii. The offender is responsible for notifying the board in writing when they are disciplinary report free for 12 consecutive months to be reconsidered for scheduling.

d. Offenders assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk for early release and will, therefore, be ineligible for parole consideration until such time as the offender has not been in lockdown status for a period of six months.

## 5. Police, Judicial and Community Attitudes toward the Offender

a. The committee will evaluate and consider information concerning the offender from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an offender will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Effective August 1, 2018, victims of any offender who appears before the Committee on Parole for a parole hearing may provide the parole panel a re-entry statement to request proximity or contact restrictions, if that offender is granted parole. Victims must submit the re-entry statement to the Committee on Parole at least 60 days prior to the offender's scheduled parole hearing. The committee will consider the re-entry statement only for the purpose of determining the offender's parole conditions and not for the purpose of determining whether to order the release of the offender on parole. The re-entry statement is not binding on the Committee on Parole, but shall be considered in concert with other information when determining conditions of parole.

d. Evidence of official and/or community support may increase the likelihood of parole.

## 6. Parole Plan

a. The committee will evaluate and consider the strength of the offender's social ties, including whether he has a supportive family, resources available to him in the community, and employment opportunities.

b. The committee will place emphasis on the appropriateness of the parole plan; therefore, it is important for the offender to have secure employment plans and a stable living arrangement available upon parole.

c. Lack of an acceptable parole plan may decrease the likelihood of parole.

7. Program Participation. The committee will evaluate and consider an offender's participation in vocational training, adult education, or reading programs as well any treatment or rehabilitation program that has been certified by the department. Such participation is considered beneficial.

## 8. Risk Assessment

a. All Offenders. The committee will consider the risk assessment score provided by the Department of Public Safety and Corrections. The score is determined by a validated risk assessment instrument that has been validated for the Louisiana offender population. The assessment identifies potential risk and identifies programmatic needs of

offenders utilizing two sets of components, static and dynamic factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2265 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:576 (March 2018), LR 45:

#### **§705. Application for Parole Rehearing or Request for Reconsideration of Decision**

A. - C. ...

D. Reconsideration. An offender may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. A parole panel may reconsider a decision of any parole panel at the request of the board chairman.

2. An offender whose parole is denied or rescinded, or whose parole supervision is revoked may request reconsideration by the committee.

a. The request for reconsideration shall be made in writing by the offender (or the offender's authorized legal representative) and shall be postmarked no later than twenty-one calendar days from the date of the hearing during which the parole panel action was taken.

b. If the request for reconsideration is not postmarked within 21 calendar days, it shall be denied.

c. Reconsideration review shall be at the discretion of the committee and shall not be available except for the following reasons:

i. if there is an allegation of misconduct by a committee member that is substantiated by the record;

ii. if there is a significant procedural error by a committee member; or

iii. if there is significant new evidence that was not available when the hearing was conducted. A request based on the availability of new evidence or information shall be accompanied by adequate documentation.

d. A request based on an allegation of misconduct or significant procedural error shall clearly indicate the specific misconduct or procedural error being alleged.

e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. may be present. The request for reconsideration shall be denied by the chairman or designee, if in his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. are present.

3. If the chairman or designee determines upon screening that a request for reconsideration raises adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c are present.

a. The case shall be set for administrative review at the next available parole panel hearing date. The review shall be conducted from the record of the first hearing. The appearance of the offender shall not be necessary.

b. The reviewing panel may vote to:

i. grant a new parole hearing and staff will make every attempt to schedule the hearing with a different parole panel than that which rendered the original decision; or

ii. affirm the original decision.

c. The applicant shall be advised, in writing, of the results of the review.

4. If the chairman or designee determine there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:

#### **§707. Parole Plans**

A. In order for an offender to be considered for parole release, the offender must have a viable transition plan that includes housing, potential job opportunities, and a support network that can incorporate family, friends, church, and rehabilitative programs. The plan for housing and will be investigated and approved by the Division of Probation and Parole.

B. In-State Parole

1. The board will not issue a certificate of parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The residence plan should be given to the classification officer at the correctional facility where the offender is housed at the pre-parole interview or mailed directly to the board 30 days prior to the parole hearing.

2. A parole hearing may be held as docketed without an approved residence plan. Parole may be granted at the hearing, subject to the residence plan being approved through the Division of Probation and Parole.

C. Out-of-State Parole

1. Before any parolee can be considered for a plan of supervision in another state, the offender shall sign an application for interstate compact services agreement to return (waiver of extradition).

2. Out-of-state parole plans may be considered when the state in question issues a written statement expressing its willingness to accept the parolee under specific conditions. Release will be deferred until such approval is received by the board from the receiving state.

3. The parolee shall be required to comply with all applicable provisions of the interstate compact, and shall be required to acknowledge, in writing, that he or she is fully aware of the requirements of transfer under the compact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013).

## **Chapter 11. Violations of Parole**

### **§1101. Types of Violations**

#### **A. New Felony Conviction—Automatic Revocation**

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

#### **B. Technical Violations**

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a preliminary hearing on-site will be scheduled as soon as possible upon request. Subsequent to the preliminary hearing, bond may be permitted, but only with authorization of the committee.

#### **C. Absconders**

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders may be returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Extradition or waiver of extradition may be considered as probable cause for absconders apprehended out-of-state.

b. Upon return to the custody of the department, a parole revocation questionnaire shall be completed and forwarded to the committee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:

### **§1103. Activity Report**

A. An activity report is used by the Division of Probation and Parole to advise the committee of an offender's actions for informational purposes and document and notify an offender's violation of the conditions of parole. An activity report may, or may not, require action by the committee.

1. If action by the committee is necessary, the activity report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;
- e. unsatisfactory termination of parole;
- f. impose, add, or modify special conditions of parole;
- g. revocation of parole and
- h. hold parolee pending disposition of charges.

2. The Division of Probation and Parole will prepare the activity report within five working days following

receipt of the preliminary hearing findings from the hearing officer or five working days from the date the parolee waived or deferred the preliminary hearing. The report, along with the preliminary hearing forms and other documents, shall be forwarded to the committee.

3. Upon receipt of the activity report and other documentation, the case will be placed on the single-member action docket.

4. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

5. Upon receipt of the activity report, the case will be placed on the single-member action docket for a decision.

6. After the case has been acted upon, a decision notice will be forwarded to the probation and parole district office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:

### **§1105. Preliminary Hearing for Detained Parole Violators—Preliminary Hearing**

A. The preliminary hearing is a preliminary due process administrative hearing which is conducted by a hearing officer designated by the Division of Probation and Parole. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

1. The purpose of the preliminary hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

2. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action. The preliminary hearing will be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

4. Prior to the preliminary hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;
- b. his rights at the hearing; and
- c. the date, time, and place of the hearing.

5. The parolee may request deferral of the preliminary hearing pending disposition of new felony charges. The parolee may also request the deferral of the preliminary hearing for a period of six months pending disposition of a misdemeanor domestic abuse battery.

6. The parolee may retain an attorney or, if eligible, be represented by appointed counsel.

7. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

8. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:

#### **§1109. Violation Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013), repealed LR 45:

#### **Family Impact Statement**

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on June 10, 2019.

Sheryl M. Ranatza  
Board Chair

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Clemency and Parole**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not have a fiscal impact on state or local governmental unit expenditures.

The proposed rule changes by the Board of Pardons and Parole (BPP) address changes to LA RS 15:572.4 that establishes a system to handle clemency applications at the end of a gubernatorial term.

In addition, the BPP amends specific rules that are technical and non-technical revisions. These changes clarify the Board's ability to rescind parole decisions and grant rehearings and expand Board discretion dealing with the consideration of offenders with disciplinary issues who would generally not be considered a good risk for early release. These changes also remove the employment plan as it is no longer a mandatory part

of the Parole Plan or Interstate Compact application, although they will still be considered by the Board if submitted. The changes add new felony convictions moving forward and will result in an automatic revocation without regard to whether the appeal process has been exhausted, provide for notification of an offender's violation of the conditions of parole on the activity report, remove pre-revocation hearings and expand on the deferral of preliminary hearings. Finally, the changes repeal the Violation Report.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule changes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Thomas C. Bickham III  
Undersecretary  
1905#006

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Office of State Uniform Payroll**

#### **Payroll Deduction (LAC 4:III.Chapter 11)**

In accordance with R.S. 42:456, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt amendments to the rule regarding payroll deductions for the state's combined charitable campaign deductions. The purpose of the amendment is to inform parties how funds designated to non-profit charities that close or are acquired by another organization will be distributed.

#### **Title 4 ADMINISTRATION Part III. Payroll**

#### **Chapter 11. State Combined Charitable Campaign (SCCC) Deductions**

#### **§1124. Closure or Merger of Charitable Organizations**

A. Any charitable organization, which ceases its operations or merges with another organization, shall be ineligible to receive donations from the SCCC. Exceptions may be requested by the charitable organization and will be reviewed for approval by the PCFO and OSUP.

B. An ineligible charitable organization shall give written notice to OSUP, through the PCFO, within two weeks of the charitable organization's decision to close or merge through governance action. Such notification shall come from the organization's board of directors.

C. OSUP shall notify any ineligible charitable organization that it shall no longer receive donations from the SCCC.

D. OSUP, in coordination with the PCFO, shall establish guidelines for designations/deductions made by employees to an organization deemed ineligible.

E. The PCFO shall notify affected employees in writing of such organizational change and shall provide options for handling the employees' designations/deductions. The PCFO will manage the charitable organization's payouts accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 45:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments to Andrea P. Hubbard, Director of the Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., June 20, 2019.

Desireé Honoré Thomas  
Assistant Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Payroll Deduction**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated implementation cost as a result of the proposed rule change. The proposed rule change informs affected parties of requirements when a participating State Combined Charitable Campaign (SCCC) charitable organization experiences a status change due to, but not limited to, closure or merger with another organization. Any pledges made to the organization by employees will be distributed according to guidelines established and approved by the Office of State Uniform Payroll (OSUP) in coordination with the Principal Combined Fundraising Organization (PCFO).

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no effects on revenue collections of state or local governmental units as a result of this proposed action.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no anticipated cost or benefit to affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated impact on competition and employment as a result of this proposed action.

Desireé Honoré Thomas  
Assistant Commissioner  
1905#014

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Board of Medical Examiners**

#### **Definitions, Requirements and Clarification (LAC 46:LX.3105 and Chapter 33)**

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes to amend definitions, supervisor requirements and academic requirements.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend chapters 31 and 33 for publication in the May 20, 2019 edition of the Louisiana Register.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED**

#### **Part LX. Licensed Professional Counselors Board of Examiners**

#### **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**

#### **Chapter 31. License of Title for Marriage and Family Therapy**

#### **§3105. Definitions for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists**

*Active Supervision*—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact. The supervisor and supervisee must meet at least one hour within a three-month period. Active Supervision is based on direct client contact hours. Supervision hours shall be adjusted if the PLPC has less than 20 hours of direct contact, or more than 20 hours of direct client contact.

\* \* \*

#### **Chapter 33. Requirements for Licensure and Provisional Licensure**

#### **§3309. Academic Requirements for MFT Licensure or Provisional Licensure**

[Formerly §3311]

A. The board, upon recommendation of the advisory committee, shall provisionally license a person for postgraduate clinical experience who applies on the required application forms, completed as the board prescribes and accompanied by the required fee. Additionally, applicants must meet one of the four following academic options:

1. a master's or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE; or

a. a minimum of 60 semester hours of coursework;

b. a minimum of 500 supervised direct client contact hours, with a minimum of 250 hours of these 500 hours with couples and/or families;

c. a minimum of 100 hours of face-to-face supervision. The training of the supervisor must be substantially equivalent to that of an AAMFT approved supervisor as determined by the advisory committee.

2. a master's or doctoral degree in marriage and family therapy or marriage and family counseling or a related clinical mental health field from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally-accredited educational institution with a minimum of six courses in marriage and family therapy, including coursework on the AAMFT code of ethics. The degree must include:

a. a minimum of 60 semester hours of coursework;

b. a minimum of 500 supervised direct client contact hours, with a minimum of 250 of these 500 hours with couples and/or families;

c. a minimum of 100 hours of face to face supervision. The training of the supervisor shall be substantially equivalent to that of an AAMFT approved supervisor as determined by the advisory committee;

3. a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from a regionally accredited institution of higher education or a certificate from a postgraduate training institute in marriage and family therapy. Applicants with a school counseling degree would need to meet the requirements in §3311. The qualifying degree or certificate program must include coursework, practicum, and internship in marriage and family therapy that is determined by the advisory committee to be substantially equivalent to a graduate degree or post-graduate certificate in marriage and family therapy from a program accredited by COAMFTE. To be considered substantially equivalent, qualifying degrees or post graduate certificates must include:

a. a minimum of 60 semester hours of coursework;

b. a minimum of 500 supervised direct client contact hours, with a minimum of 250 of these 500 hours with couples and/or families;

c. a minimum of 100 hours of face to face supervision. The training of the supervisor shall be substantially equivalent to that of an AAMFT approved supervisor as determined by the advisory committee;

4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 35:1113 (June 2009), LR 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011), amended LR 38:1965 (August 2012), repromulgated LR 41:741 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1982 (October 2017), LR 45:

### **§3315. Application, Practice, and Renewal Requirements for Provisional Licensed Marriage and Family Therapists**

A. - B. ...

\* \* \*

### **C. PLMFT Supervision Requirements for Licensure**

1. A PLMFT must complete qualified postgraduate clinical experience under the supervision of a board-approved supervisor or registered supervisor candidate that consists of work experience in marriage and family therapy and that includes at least 3,000 hours of clinical services to individuals, couples, families, or groups. An out-of-state applicant may transfer up to 2100 hours of supervised experience towards licensure (a maximum of 1200 direct client contact hours, a maximum of 815 indirect hours, and a maximum of 85 hours of face-to-face supervision). The aforementioned hours must have been accrued under the clinical supervision of an approved supervisor within their state who meets the qualifications of a supervisor of PLMFTs set forth by the advisory committee. The decision to approve transfer of direct and indirect hours and supervision from out of state shall be made at the discretion of the advisory committee.

C.a. - 2. ...

a. Up to 100 hours of face-to-face supervisor contact received during the completion of the applicant's qualifying academic experience graduate program that is systemically oriented as determined by the advisory committee may be counted toward the required 200 hours of qualified supervision. Of these 100 hours, 50 hours must be counted as individual supervision. Up to 25 % of the 100 face-to-face supervision hours may be conducted via synchronous videoconferencing.

3. ...

4. The supervisee may begin accruing client- and supervisor-contact hours only after the supervisee has received an official letter of approval as a provisional licensed marriage and family therapist from the board.

a. Supervision experience hours for PLPC and PLMFT may be accrued concurrently, after receiving notification of approval from the board, certifying that all the requirements for both provision licensed professional counselor and the provisional licensed marriage and family therapist have been met. If approval was not obtained on the same date for each provisional license, then concurrent accrual of hours cannot begin until the second provisional license has been approved. Retroactive supervision experience hours are not permitted.

C.5. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:

### **§3317. Qualifications of the LMFT-Approved Supervisor, LMFT-Registered Supervisor Candidate, Board-Approved Supervisor, and Registered Supervisor Candidate**

A. - 2. ...

3. A person who wishes to become an LMFT-approved supervisor must be a Louisiana licensed marriage and family therapist and must submit a completed application that documents that he or she meets the requirements. in one of two ways.

a. - D.1.a.i. ...

ii. at least 90 hours of supervision of approved supervisees. These 90 hours of supervision must be completed in no less than one year with the oversight of his or her designated board-approved supervisor.

D.1.b. – 3.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:1969 (August 2012), amended LR 41:746 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1984 (October 2017), LR 45:

### **§3319. Responsibilities of the Provisional Licensed Marriage and Family Therapist**

A. - C.3. ...

4. The board-approved supervisor shall attend a LMFT board-approved supervisor's orientation approved by the advisory committee within one year of the board-approved supervisor's date of certification. This orientation may also be counted as continuing education toward the board-approved supervisor's licensure renewal as a marriage and family therapist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 38:1970 (August 2012), amended LR 41:748 (April 2015), LR 45:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

### **Public Comments**

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Baton Rouge, LA 70809 by June 10, 2019 at 5:00 p.m.

Jamie S. Doming  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Definitions, Requirements and Clarification**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rule changes clarify, revise, and remove existing definitions and include new definitions regarding present practices for the LA Licensed Professional Counselors (LPC) Board when regulating Licensed Marriage and Family Therapists and Provisional Licensed Marriage & Family Therapists. Specifically, the proposed rule changes add, remove, and revise definitions regarding supervision of provisional LMFTs and the application and licensure of LMFTs.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not affect revenue collections for state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The proposed rule changes benefit practitioners licensed by the LPC Board by clarifying, revising, and removing existing definitions, as well as including new definitions, regarding present practices of the board. Specifically, the proposed rule changes add, remove, and revise definitions regarding supervision of provisional LMFTs, application and licensure of LMFTs. As a result, persons regulated by the LPC Board will have access to the most current practices regarding the regulation of LMFTs and Provisional LMFTs in the proposed rule changes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes are not anticipated to affect competition or employment.

Jamie S. Doming  
Executive Director  
1905#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Board of Nursing**

Advanced Practice Registered Nurses  
(LAC 46:XLVII.Chapter 45)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:917-918, that the Louisiana State Board of Nursing (LSBN) is proposing rule

changes to Title 46, Professional and Occupational Standards, Part XLVII Chapter 45, Advanced Practice Registered Nurses §4507 Licensure as Advanced Practice Registered Nurse and §4513 Authorized Practice and §4516 Continuing Education Requirement for APRNs Prescribing Controlled Substances. This proposed Rule provides for revisions to Chapter 45 to comply with §978.3 (“Continuing education for the prescribing of controlled substances”) in Section 2 of Act 76 of Louisiana’s 2017 regular legislative session. Act 76 mandates that prescribers of controlled substances in Louisiana with a CDS license must obtain three credit hours of continuing education (CE) as a prerequisite of license renewal. Content of the CE must include drug diversion training, best practices for the prescribing of controlled substances, appropriate treatment for addiction, and any other content deemed appropriate by the regulatory agency. This is a one-time requirement under Act 76. CEs obtained for this purpose may be utilized to meet the usual CE requirements of the agency. Currently, APRNs with prescriptive authority have an annual CE requirement as do grandfathered APRNs upon renewal of licensure under commensurate requirements.

In addition, a clarification is proposed to Chapter 45 that the practice requirement for renewal for grandfathered APRNs be aligned to consider the newly implemented biennial renewal in that the practice requirement is annual rather than the previous language of “within a 12 month period”.

Three technical changes are proposed to clarify references to citations including LAC 46:XLVII. 4507.A.1.b.h, which references LAC 46:XLVII.4507.A.1.a–d and should be revised to refer to LAC 46:XLVII.4507.A.1.a–e. Previous rule changes published in 2016 resulted in renumbering of sections of §4507 that inadvertently were not adjusted in subsequent sections. Prior to 2016, §4507.A.1.a.–d referred to and required national certification to be licensed as an APRN in an additional specialty, thus the revised reference includes §4507.A.1.a–e in order to include national certification. Secondly, LAC 46:XLVII.4507.D.1.c. which references LAC 46:XLVII.4507.A.1.b and d and should be revised to refer to LAC 46:XLVII.4507.A.1.e and e. Previous rule changes published in 2016 resulted in renumbering of sections of §4507 that inadvertently were not adjusted in subsequent sections. Prior to 2016, §4507.A.1.b and d referred to and required national certification to be licensed as an APRN via endorsement, thus the revised reference includes §4507.A.1.b and e in order to include national certification. Thirdly, LAC 46:XLVII.4507.F.2. which references Subparagraphs F.1.a; b; and e and should be revised to refer to Subparagraphs F.1.a, c; and e. Prior to 2016, §4507.F.1.a, b, and e referred to and required national certification to be licensed as an APRN via reinstatement, thus the revised reference includes §4507.F.1.a, c, and e in order to include national certification. In summary, all technical changes clarify the reference to and inadvertent omission of the previous and ongoing requirement for national certification when APRNs are applying for licensure in an additional specialty, for reinstatement, and for endorsement.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**  
**Part XLVII. Nurses: Practical Nurses and Registered**  
**Nurses**

**Subpart 2. Registered Nurses**  
**Chapter 45. Advanced Practice Registered Nurses**  
**§4507. Licensure as Advanced Practice Registered**  
**Nurse**

**A. Initial Licensure**

1. The applicant shall meet the following requirements:

a. - g. ...

h. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty and/or functional role shall meet the requirements stated in LAC 46:XLVII.4507 A.1.a.-e;

A.1.i. - C.4. ...

**D. Temporary Permit: Endorsement Applicants**

1. - 1.b....

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507. A.1.b and e; or

2. - 3. ...

**E. Renewal of Licenses by Certification or Commensurate Requirements**

1. - 2. ...

a. a minimum of 300 hours of practice annually in advanced practice registered nursing, as defined in R.S. 37:913.a.; and

2.b. - 4. ...

**F. Reinstatement of an APRN License**

1. - 1.e....

2. Reinstatement of an APRN license for an applicant seeking to meet §4507.F.1.c or d, in addition to meeting the above requirements in Subparagraphs F.1.c, and e, the applicant shall:

2.a. - 4....

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:918.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:724 (May 2001), LR 29:580 (April 2003), LR 31:1340 (June 2005), LR 31:2015 (August 2005), LR 32:247 (February 2006), LR 37:3027 (October 2011), LR 40:61 (January 2014), LR 42:406 (March 2016), LR 45:

**§4513. Authorized Practice**

A. - D.2.a.v. ...

b. Controlled Substances. The board may authorize an APRN with prescriptive authority to prescribe or distribute controlled substances as defined, enumerated or included in federal or state statutes or regulations 21 CFR 1308.11-15, R.S. 40:964, on an individual practice basis. Upon initial application with the board and request for approval to prescribe controlled substances, the APRN must provide evidence of successful completion of three hours of continuing education approved by the board on controlled substance prescribing practices as delineated in LAC 46:XLVII.4516. Such board approved continuing education shall include instruction relating to drug diversion training,



best practices regarding prescribing of controlled substances, and appropriate treatment for addiction. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written, electronic, oral, or faxed prescriptions for controlled substances and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LLI.2511:

2.b.i. - 5.d. ...

6. Continued Competency for Prescriptive Authority. Each year an APRN with prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their advanced nursing role and population foci. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the request of the board in a random audit procedure at the time of the APRN's license renewal. Continuing education completed to meet the requirements of LAC 46:XLVII.4516, Continuing Education Requirement for APRNs Prescribing Controlled Substances, shall be applied to the aforementioned required continuing education related to Continued Competency for Prescriptive Authority for the year in which the continuing education related to controlled substance prescribing was completed. In order for the continuing education program to be approved by the board, the program shall:

6.a. - 17.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:572 (April 2016), amended by the Department of Health, Board of Nursing, LR 44:276 (February 2018), LR 45:

#### **§4516. Continuing Education Requirement for APRNs Prescribing Controlled Substances.**

A. Every APRN with both active prescriptive authority and who holds an active controlled dangerous substance (CDS) license prior to promulgation of this section and who is seeking the renewal of the APRN license and renewal of the prescriptive authority credential, shall, as part of the continuing education required by this Part, and as a one-time prerequisite to licensure renewal, successfully complete three hours of continuing education approved by the board on controlled substance prescribing practices. After promulgation of this section, successful completion of three hours of continuing education approved by the board on controlled substance prescribing practices shall be provided upon application and request for approval for controlled substance privileges with the board and will meet the requirements for subsequent renewal relative to controlled substance prescribing. Such continuing education shall include instruction relating to drug diversion training, best practices regarding prescribing of controlled substances, and

appropriate treatment for addiction. The continuing education requirement may be satisfied by completing a three-hour continuing education program, three one-hour continuing education programs, or any other combination of continuing education programs totaling three hours.

B. Approved Continuing Education. In order for the continuing education program to be approved by the board, the program shall:

1. be provided by a board approved national certifying body, a board approved accrediting organization, a provider approved by the board, or be provided by the board;

2. adequately address the topics of required instruction at the advanced practice level with the focus and objectives of the continuing education program on content relevant to drug diversion training, best practices regarding prescribing of controlled substances, and appropriate treatment for addiction;

C. Documentation.

1. Continuing education certificate(s) must be provided as evidence of completion of the program(s) and as requested by the board. The certificate must contain:

- a. title of the continuing education program;
- b. quantification of credit hours awarded;
- c. attendee's name;
- d. date(s) of continuing education program;
- e. name of accrediting organization, certifying body, or approved provider; and
- f. sponsoring organization (if applicable)

2. Information on how to access approved, qualifying continuing education courses will be maintained by the board and made available on its website.

D. Noncompliance. The license of an APRN:

1. Who fails to comply with the continuing education requirement of this part shall not be renewed by the board, and the RN and APRN licenses and prescriptive authority credential shall become inactive. The individual will not be authorized to practice and prescribe until the licenses and prescriptive authority have been reinstated;

2. Which has not been renewed for failure to satisfy the continuing education requirement, may be reinstated upon application for reinstatement submitted to the board, in addition to all applicable fees and costs, and evidence of completion of the continuing education required by this section.

E. Exception. An APRN renewing his/her license may be exempt from the continuing education requirement upon the submission of certification, in a form and manner specified by the board, attesting that he/she has not prescribed, administered or dispensed any controlled substance during the entire period covered by the APRN's expiring APRN license. The certification shall be verified by the board through the Louisiana Prescription Monitoring Program Act, R.S. 40:1001 et seq. An exempted individual who subsequently prescribes, administers or dispenses any controlled substance shall satisfy the continuing education requirement as a condition to license renewal for the renewal period immediately following that in which the controlled substance was prescribed, administered or dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Nursing, LR 45:

### Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 PM. on or before June 10, 2019.

Dr. Karen C. Lyon  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Advanced Practice Registered Nurses

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in any additional costs or savings to state or local governmental units other than one-time publication costs for the LA State Board of Nursing, which total approximately \$400 in FY 19. The proposed rule changes alter the requirements for continuing education for APRNs who prescribe controlled substances and possess a Controlled Dangerous Substance (CDS) license as required by Act 76 of Louisiana's 2017 Regular Session of the Legislature.

The proposed rule changes also make technical corrections to the references that provide for the requirement of national board certification of all APRNs applying for licensure. Furthermore, the proposed rules clarify the practice requirement for renewal of APRNs licensed under R.S. 37:912(B)(3)(4), to align with the recently-implemented biennial renewal in that the practice requirement is annual

rather than the previous language of "within a 12 month period".

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes require advanced practice registered nurses (APRNs) prescribing controlled substances (CDS) and who possess or will possess a CDS license to complete a one-time, 3-hour continuing education course on controlled dangerous substances, which will result in additional costs to APRNs. Furthermore, APRNs must notify the LA State Board of Nursing of the completion of the continuing education requirement in order to renew their licenses.

Failure to comply with the new continuing education requirement will result in lapsing of the license. To avoid the accidental lapsing of licenses, the proposed rules changes require the completion of the continuing education upon initial application and request for controlled substance privileges.

The proposed rule changes regarding continuing education will benefit APRNs by educating them on current standards of practice that assist them in remaining compliant with the laws and rules related to the practice of nursing. Practicing in a prudent manner promotes delivery of quality health care and averts disciplinary action against licensees and most importantly benefits patients under the care of an APRN as recipients of quality care.

Furthermore, the proposed rule changes include an exemption from the CDS continuing education requirement for APRNs who attest to not prescribing CDS medications during their previous licensure period upon license renewal. To the extent such APRNs prescribe a CDS during practice of their current license period, they will be required to complete the continuing education requirement prior to their next license renewal.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Dr. Karen C. Lyon, E.D.  
Executive Director  
1905#034

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing Office of Aging and Adult Services and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers  
Provider Requirements (LAC 50:XXI.Chapter 9)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.901 and §903 and to adopt §904 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services

propose to amend the general provisions governing home and community-based services (HCBS) waivers in order to require HCBS providers to verify employee Social Security numbers, and to clarify and ensure that these provisions are appropriately promulgated in the *Louisiana Administrative Code*.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXI. Home and Community-Based Services Waivers**

##### **Subpart 1. General Provisions**

##### **Chapter 9. Provider Requirements**

##### **Subchapter A. General Provisions**

##### **§901. Settings Requirements for Service Delivery**

A. - A.5. ...

B. In a provider-owned or controlled non-residential setting, in addition to the qualities listed in Subsection A above, the following additional conditions must be met:

1. - 3. ...

C. In a provider-owned or controlled residential setting, in addition to the qualities listed in Subsections A and B above, the following additional conditions must be met.

1. The unit or dwelling shall be a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant laws of the state, parish, city, or other designated entity. For settings in which landlord/tenant laws do not apply, the state must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.

C.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1978 (October 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 45:

##### **§903. Electronic Visit Verification**

A. An electronic visit verification (EVV) system must be used for time and attendance tracking and post-authorization for home and community-based services.

1. - 2.b....

3. Requirements for proper use of the EVV system are outlined in the respective program's Medicaid provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1979 (October 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 45:

##### **§904. Social Security Verification**

A. Home and community-based waiver providers shall verify all currently employed and all new employees' Social

Security numbers either by obtaining a copy of the employee's Social Security card or through a Social Security number verification service.

B. A copy of the employee's Social Security card or proof of verification shall be kept in the employee's record.

1. The department or its designee reserves the right to request verification of an employee's Social Security number at any time.

2. Should the provider be unable to provide proof of verification, payments associated with that employee's previously billed time may be recouped and/or future reimbursement withheld until proper verification is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

##### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

##### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

##### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

##### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2019.

##### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are

satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after June 9, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Home and Community-Based Services Waivers—Provider Requirements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$324 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the general provisions governing home and community-based services (HCBS) waivers in order to require HCBS providers to verify employee Social Security numbers, and to clarify and ensure that these provisions are appropriately promulgated in the Louisiana Administrative Code. Implementation of this proposed rule may impact providers that fail to verify Social Security numbers of current and new employees, if payments are withheld as a result of non-compliance with this requirement. It is anticipated that implementation of this proposed rule will not result in costs to providers of home and community-based waiver services in FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by providing clear and concise participation requirements.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Jen Steele  
Medicaid Director  
1905#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Physical Therapy Board**

#### **Licensing and Certification (LAC 46:LIV.Chapters 1-5)**

The Louisiana Physical Therapy board, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2405, hereby amends Professional and Occupational Standards: Physical Therapy Board, LAC 46:LIV 123, 311, 337, 339, and 501.

The changes that are proposed to the language found in Louisiana Administrative Code (LAC) 46:LIV.123 are strictly meant to clean-up language in the definition section of Rules. The first change is to the definition of Continuous Supervision. In the Rule language, prior to the proposed amendment, the definition lists those whom the definition of continuous supervision applies. The board voted to amend the language to delete the list of those whom the definition of continuous supervision applies for two reasons. First, the list is incorrect because PT students do not require continuous supervision. Secondly, the applicability of who the supervision applies to can be addressed in the rules that directly relate to supervision. By having the list in the definition, as well, when a change occurs in Rule the change must be made in two different places, which uses more resources when a change must occur in Rule and there is more room for an oversight and inconsistency if the definition is not updated when the supervision rule is updated.

The board voted to change the definition of HIPDB Healthcare Integrity and Protection Data Bank to simply state "see National Practitioner Databank (NPDB)." The Healthcare Integrity and Protection Data Bank (HIPDB) was established by the *Health Insurance Portability and Accountability Act of 1996*, Public Law 104-191, (HIPDB's authorizing statute is also referred to as Section 1128E of the *Social Security Act*). The HIPDB is no longer operational; however, information previously collected and disclosed by the HIPDB is now collected and disclosed by the National Practitioner Data Bank (NPDB). The Healthcare Integrity and Protection Data Bank (HIPDB) officially became part of the National Practitioner Data Bank (NPDB) May 6, 2013. The board considered removing HIPDB from the definitions altogether; however, the board determined that the definition should simply refer to the NPDB because some historical documents of the board reference the HIPDB.

The change that is proposed to the language found in LAC 46:LIV.311.B. is simply to strike out the requirement that licensees provide documentation to the executive director that he has successfully completed a board-approved course of study for dry needling education and training. The requirements for education and training will not change, but the change will be that the licensee does not need to provide documentation to the executive director.

Regarding the change to LAC 46:LIV.337, the board is correcting the language as it relates to PT student

supervision, which is on-premises and not continuous supervision. This has been the practice historically and the change to Rule reflects what is occurring in practice.

Regarding the change to LAC 46:LIV.339.C(2), the board voted to allow PTAs to supervise at least two PTA students in their supervision ratio. The total number of individuals that a PTA can supervise is two according to the Rule and the language currently states that of those two only one can be a PTA student. The PTA programs have expressed the need for clinical instructors and the limited availability of supervisors. Prior to December 2018, the Rules were silent on the PTA supervision ratio and PTAs were supervising PTA students.

Regarding the change to LAC 46:LIV.501, the board voted to include two fees in Rule: the Mailing List fee and the Compact State Fee.

These amendments are proposed in response to the decision made by the majority of members at the board meetings held January 31, 2019. The basis and rationale for the proposed Rules are to comply with R.S. 37:2405.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIV. Physical Therapy Examiners**

##### **Subpart 1. Licensing and Certification**

#### **Chapter 1. Physical Therapists and Physical Therapists Assistants**

##### **Subchapter B. General Provisions**

#### **§123. Definitions**

**[Formerly §§103, 113, 119, 303, and 305]**

\* \* \*

A. ...

\* \* \*

*Continuous Supervision*—observation and supervision of the procedures, functions, and practice by a supervisor who is physically within the same treatment area.

\* \* \*

*HIPDB*—Healthcare Integrity and Protection Data Bank, See National Practitioner Databank (NPDB).

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2407(A) and Act 535 of 2009.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744, 745, 748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662, 666 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 24:39, 40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018), LR 45:

##### **Subpart 2. Practice**

#### **Chapter 3. Practice**

##### **Subchapter A. General Provisions**

#### **§311. Treatment with Dry Needling**

A. ...

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Prior to utilizing dry needling techniques in patient treatment, a PT shall successfully—complete a board-approved course of study

consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with La R.S. 37:2405.A (8) and Act 535 of 2009.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 45:

##### **Subchapter C. Supervised Practice**

#### **§337. Clinical Instruction of Student PTs and PTAs**

**[Formerly §321]**

A. A clinical instructor shall provide on-premises supervision to a PT student in all practice settings. A clinical instructor shall provide continuous supervision to a PTA student in all practice settings. A PTA may act as a clinical instructor for a PTA student in all practice settings provided that the PT supervisor of the PTA is available by telephone or other communication device.

B. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 45:

#### **§339. Limitation on Supervision Ratios**

**[Formerly §321]**

A. - C.1. ...

2. no more than two PTA students.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 45:

##### **Subpart 3. Fees**

#### **Chapter 5. Fees**

##### **§501. Fees**

A. - A.10. ...

11. mailing list—\$250 maximum;

12. compact state fee—\$95.

B. - D. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended by the

Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 17:667 (July 1991), LR 18:963 (September 1992), LR 21:396 (April 1995), LR 28:1982 (September 2002), amended by the Physical Therapy Board, LR 37:3063 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1301 (August 2016), LR 44:2189 (December 2018), LR 45:

#### **Family Impact Statement**

These amendments will have no direct effect on the stability of the family. These amendments will not affect the authority and rights of persons regarding the education and supervision of their children and will not have an effect on the functioning of the family. These amendments will impact the family budget of individuals who choose to practice in Louisiana through the Compact or who choose to purchase a mailing fee, which are both completely voluntary purchases. The Physical Therapy Licensure Compact provides a cost reduction to those who are practicing in Louisiana through the Compact because they will not have to complete continuing education in Louisiana to maintain a practice privilege through the Compact. This amendment will not affect the behavior or personal responsibility of children. This amendment will not have an effect on the ability of the family or local government to perform any functions that they currently are performing.

#### **Poverty Impact Statement**

The proposed amendments have no foreseeable impact on any child, individual or family as defined by RS 49:973B.B.

#### **Provider Impact Statement**

The proposed amendment do not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

#### **Public Comments**

Interested persons may submit written comments until 4 PM, June 10, 2019, to Charlotte F. Martin, Louisiana Physical Therapy Board, 2110 W. Pinhook Road, Suite 202, Lafayette, LA 70508

#### **Public Hearings**

Interested persons may present their views until 4 PM, June 27, 2019 at the Louisiana Physical Therapy Board, 2110 W. Pinhook Road, Suite 202, Lafayette, LA 70508.

Charlotte Martin  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Licensing and Certification**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will result in a marginal, one-time publication expense for the LA Physical Therapy Board for publishing the notice of intent and associated forms in the Louisiana Register, as well as editing the policies, forms and the website that reflect proposed rule changes. The aforementioned costs associated with editing policies, forms and the LPTB website will be minimal, since a majority of the LPTB forms and policies are electronic and available on the LPTB website.

Proposed rule changes for dry needling training remove the requirement that licensees must submit certificates of completion to the executive director. This change will provide

an estimated savings of \$2,000 annually for the LPTB. The savings are associated with the executive director currently receiving the documentation and mailing a letter to the licensee acknowledging receipt of the documentation, along with an acknowledgement form that the licensee is to submit to the board acknowledging the requirements of the Rule. This practice would no longer occur under the proposed rule changes. Completing the coursework is still a requirement of licensees prior to practicing dry needling, but the burden of maintaining the certificate of completion is on the licensee and not on the LPTB (see Part III).

Additional proposed rule changes amending the definition of the Healthcare Integrity & Protection Data Bank and rules regarding clinical instruction of Student Physical Therapists and Student Physical Therapists Assistants are technical changes and will not result in additional costs or savings for the LPTB.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will result in an indeterminable aggregate effect on SGR collections for the LPTB. Two new fees are included in the proposed rule changes and are outlined below.

The first new fee is a \$250 fee to obtain a formatted copy of the LPTB's mailing list. This mailing list is a service that the board offers for individuals who prefer that the board format the list and provide information in a way that is easily editable for a mail merge. If an individual requests information through a public records request, the board does not charge for the list. However, the board will impose the fee when staff use administrative resources to export the information and format it for an individual. The new fee will defray the administrative costs associated with exporting and formatting the mailing list data.

The second fee is the \$280 Compact State Fee. During the 2018 Regular Session the legislature enacted the Physical Therapy Compact, which allows PTs and PTAs who are not domiciled in Louisiana to let their Louisiana license expire, giving them the option to purchase a privilege to practice in Louisiana through the Compact Commission. The LPTB will collect a \$280 Compact Fee from individuals who wish to practice through a Privilege to Practice in Louisiana to mitigate the impact of income loss to the board from those individuals no longer renewing their Louisiana licenses. The \$280 fee per individual who chooses to not renew their license is the same as the current 2-year license renewal fee. However, fees retained by the board will total \$184.30 (\$92.15 for each year of the 2-year license renewal) a decrease of \$95.70 per license. Of the remaining Compact State Fee balance, the LPTB will transfer \$90 (\$45 for each year of the 2-year license renewal) to the Compact Commission for processing the application for a Privilege to Practice, with the remaining \$5.70 defraying a 3% bank fee assessed on each transaction. The fee is meant to minimize the impact of the loss of renewal income from those licensees who decide to not renew their Louisiana license and choose to purchase a privilege to practice in Louisiana instead, as the LPTB still has duties associated with regulating providers practicing under a Compact Privilege to Practice.

The revenue impact is a result of two factors. First, Louisiana licensees who are not domiciled in Louisiana and are licensed in a Compact not renewing their Louisiana licenses and seeking a Compact Privilege to Practice resulting in the aforementioned per-license revenue decrease. Furthermore, to the extent practitioners domiciled in Compact States outside of Louisiana that did not previously hold a license to practice seek a Compact Privilege to Practice in Louisiana, the LPTB may realize an additional \$184.30 per license every two years (\$92.15 for each year of the 2-year license renewal). For

reference, Texas and Mississippi are member states of the Compact and are currently issuing Compact Privileges to Practice. In addition, Arkansas recently passed legislation to become a member state, but is not currently issuing Compact Privileges. As a result of the aforementioned factors, the aggregate revenue effect associated with the \$280 Compact State Fee is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Compact State Fee represents no additional costs or savings for persons domiciled out-of-state but presently licensed in Louisiana, as it carries the same cost as a 2-year license renewal (See Part II). However, to the extent practitioners domiciled in Compact States outside of Louisiana that did not previously hold a license to practice seek a Compact Privilege to Practice in Louisiana, it will result in a cost increase of \$280 every 2-years. All licensees participating the Compact will be required to comply with the continuing education requirements of their home state license.

The proposed rules will result in a \$250 per-request increase for persons seeking a formatted mailing list from the LPTB. However, in the event persons request an unformatted mailing list through a public records request, they will be able to obtain the list for no charge.

The proposed rule change removing the requirement for practitioners to submit certificates of completion for dry needling courses to the LPTB will result in a cost savings for those practitioners. However, these practitioners must now keep records of their course completion instead of the LPTB.

The proposed rule changes allow supervising PTs to supervise up to two PTAs, rather than the previous maximum of one.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition and employment.

Charlotte F. Martin  
Executive Director  
1905#013

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

**Regulation 112—Adoption of NAIC Handbooks,  
Guidelines, Forms and Instructions  
(LAC 37:XIII.Chapter 161)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to adopt Regulation 112.

The purpose of Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 161. Regulation 112—Adoption of NAIC  
Handbooks, Guidelines, Forms, and  
Instructions**

**§16101. NAIC Handbooks, Guidelines, Forms, and  
Instructions Incorporated by Reference**

A. The purpose of this regulation is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code.

B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:

1. the Financial Condition Examiner's Handbook, 2018 edition;
2. the Annual and Quarterly Statement Instructions, Property and Casualty, 2018 edition;
3. the Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2018 edition;
4. the Annual and Quarterly Statement Instructions, Health, 2018 edition;
5. the Annual and Quarterly Statement Instructions, Title, 2018 edition;
6. the Annual and Quarterly Statement Instructions, Fraternal, 2018 edition;
7. the Annual and Quarterly Statement Blanks, Property and Casualty, 2018 edition;
8. the Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2018 edition;
9. the Annual and Quarterly Statement Blanks, Health, 2018 edition;
10. the Annual and Quarterly Statement Blanks, Title, 2018 edition;
11. the Annual and Quarterly Statement Blanks, Fraternal, 2018 edition;
12. the Accounting Practices and Procedures Manual, 2018 edition;
13. the Financial Analysis Handbook, 2018 edition;
14. the Own Risk and Solvency Assessment Guidance Manual, 2018 edition;
15. the Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2018 edition;
16. the Risk-Based Capital Forecasting and Instructions, 2018 edition;
17. the Market Regulation Handbook, 2018 edition.

C. The commissioner of insurance shall utilize the handbooks, guidelines, forms, and instructions incorporated by reference as necessary for the administration of the provisions of the Louisiana Insurance Code, so long as the provisions of those publications are consistent with the Louisiana Insurance Code.

D. A copy of these handbooks, guidelines, forms, and instructions may be obtained from:

1. the National Association of Insurance Commissioners, at <http://www.naic.org>;



2. the Louisiana Department of Insurance, Poydras Building, 1702 N. Third Street, Baton Rouge, LA 70802; or

3. the Louisiana Office of the State Register, 1201 N. Third Street, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:

#### **§16103. Effective Date**

A. Regulation 112 shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:

#### **§16105. Severability**

A. If any Section or provision of Regulation 112 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 112 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and, for these purposes, the Sections and provisions of Regulation 112 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:

#### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level Of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than June 20, 2019 by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214. If comments are to be



shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3rd Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule changes will not result in additional costs or savings for state or local governmental units. The proposed Rules incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule changes will not affect revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule changes will benefit persons and entities seeking to know which handbooks or guidelines are currently being incorporated by reference to serve as professional guidance for entities under the purview of the LA Dept. of Insurance (LDI). These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule changes will not affect competition or employment.

Nicholas Lorusso  
Chief Deputy Commissioner  
1905#005

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Natural Resources Office of Conservation

Statewide Order No. 29-B  
(LAC 43:XIX.Chapter 5)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The agency has recently received several inquiries and requests for clarification from the regulated community on the application of the definitions of “Residual” and “Container” as they apply to marine supply vessel permanent cargo tanks and barges. The proposed rule changes clarify that the commonly employed waste removal practices and waste material quantities remaining thereafter in large marine tanks such as marine supply vessel

permanent cargo tanks, closed-top and open barges; are acceptable under the current definitions.

## Title 43

### NATURAL RESOURCES

#### Part XIX. Office of Conservation—General Operations

##### Subpart 1. Statewide Order No. 29-B

#### Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

##### §501. Definitions

\* \* \*

*Container*—a sump, storage tank, process vessel, truck, barge, or other receptacle used to store or transport E and P Waste, excluding barges and marine supply vessel cargo tanks.

\* \* \*

*Exploration and Production Waste (E and P Waste)*—drilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E and P Wastes include, but are not limited to the following.

Waste Type	E and P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and nonhazardous natural gas plant processing waste fluid which is or may be commingled with produced formation water
02	Oil-base drilling wastes (mud, fluids and cuttings)
03	Water-base drilling wastes (mud, fluids and cuttings)
04	Completion workover and stimulation fluids
05	Production pit sludges
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, DNR permitted salvage oil facilities (that only receive waste oil [B,S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems
07	Produced oily sands and solids
08	Produced formation fresh water
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities
10	Washout water and residual solids generated from the cleaning of containers, barges and/or marine supply vessel cargo tanks that transport E and P Waste and are not contaminated by hazardous waste or material; washout water and solids (E and P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container, barge and/or marine supply vessel cargo tank holding a residual amount of E and P Waste
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material.
12	Nonhazardous Natural gas plant processing waste solids.
13	(Reserved)
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e. waste fluids/solids generated from the cleaning of a pipeline

Waste Type	E and P Waste Description
15	E and P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E and P Wastes defined as Waste Types 01 and 06.
16	Crude oil spill clean-up waste
50	Salvageable hydrocarbons bound for permitted salvage oil operators
99	Other E and P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport).

\* \* \*

*Residual* (for containers)—the de-minimis quantity of E and P Waste (solids or liquids) remaining in a container after offloading, using the practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, and aspirating) and amounting to no more than one inch of residue remaining on the bottom, or no more than three percent by weight of the total capacity of the container if the container is less than or equal to 110 gallons in size, or no more than 0.3 percent by weight of the total capacity of the container if the container is greater than 110 gallons in size.

*Residual* (for barges and marine supply vessel cargo tanks)—shall be the de-minimis quantity of E and P Waste (solids or liquids) remaining in a container using the practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, and aspirating) and amounting to no more than the non-fluid, non-pumpable/removable material remaining in a marine supply vessel permanent cargo tank or barge after commonly employed removal practices are complete.

\* \* \*

*Sump*—a container constructed of steel, fiberglass, sealed concrete, or some other impermeable material utilized for temporary storage of E and P Waste, including, but not limited to, wash water and solids (sludge) generated by the removal/cleaning of residual amounts of E and P Waste from storage containers, barges and/or marine supply vessel cargo tanks.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:536 (March 2017), LR 45:

#### **§507. Location Criteria**

A. Commercial facilities and transfer stations may not be located in any area:

1. within 1/4 mile of a public water supply water well or within 1,000 feet of a private water supply well for facilities permitted after January 1, 2002;

2. where type A and B facilities and transfer stations, class II disposal wells, storage containers, vessels and E and P waste treatment systems and related equipment are located within 500 feet of a residential, commercial, or public building, church, school or hospital or for any proposed new commercial facility or transfer station where publication of the notice of intent or date of the permit application filed with the Office of Conservation is dated after the

promulgation date of this rule, where type A and B facilities and transfer stations, class II disposal wells, storage containers and E and P waste treatment systems and related equipment are located within 1,250 feet of a school, hospital, or public park;

3. – 4.b. ...

5. where permanent E and P Waste storage containers, vessels, land treatment cells, and storm water retention (sediment) ponds are located in a "V" or "A" zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least 1 foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100-year flood. Existing facilities located in a "V" or "A" zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities and transfer stations will be required to update their facilities accordingly;

6. – 7.D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), amended LR 27:1901 (November 2001), LR 29:938 (June 2003), LR 41:951 (May 2015), LR 45:

#### **§519. Permit Application Requirements for Commercial Facilities**

A. – C.4.d....

5. a detailed schematic diagram of the proposed facility of sufficient scale to show the placement of access roads, buildings, and unloading areas, and the location and identification of all storage tanks, barges, and other containers/vessels (including design capacities), treatment system/equipment, levees, flowlines, filters, the Class II disposal well(s), and all other equipment and operational features of the storage, treatment and/or disposal system;

6. – 21....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000), amended LR 27:1905 (November 2001), LR 29:938 (June 2003), LR 36:2570 (November 2010), LR 45:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only,

until 4 p.m., June 17, 2019, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. R A 2019-03. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

Richard P. Ieyoub  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Statewide Order No. 29-B**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated implementation costs to the Department of Natural Resources (DNR) or local governmental units as a result of the proposed rule change, which clarifies the definitions of "Residual" and "Container" as they apply to marine supply vessel permanent cargo tanks and barges. The proposed rule changes clarify that the waste type will remain the same and the commonly employed waste removal practices and waste material quantities remaining thereafter in large marine tanks such as marine supply vessel permanent cargo

tanks, closed-top and open barges; are acceptable under the current definitions.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have no effect on revenue collections of state and local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are no anticipated costs to directly affected persons or non-governmental groups. Operators of producing wells are currently required to dispose of Exploration and Production Waste (E and P Waste) depending upon waste type. The proposed rule change clarifies that the waste type previously used for residuals in large marine tanks such as marine supply vessel permanent cargo tanks, closed-top and open barges remains the same.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule changes are not anticipated to have any impact on competition or employment.

Richard P. Ieyoub  
Commissioner  
1905#035

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Committee Reports

## COMMITTEE REPORT

### House Committee on Agriculture, Forestry, Aquaculture, and Rural Development

Oversight Hearing on Emergency Rule  
Proposed by Department of Agriculture and Forestry  
Medical Marijuana Program  
(LAC 7:XLIX.101, 501, 525, 701, 907, 1101,  
1505, 1701, 1711, 2501, 2901, and 2903)

On behalf of the members of the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development, I write to inform you that the committee has voted to find unacceptable the implementation of the Emergency Rule submitted by the Department of Agriculture and Forestry on April 26, 2019, to amend the medical marijuana program regulations.

In accordance with the powers conferred in the Administrative Procedure Act by R.S. 49:953(B), the committee met on Wednesday, May 8, 2019, to exercise oversight authority on the attached emergency rule submitted by the department. The emergency rule makes various changes to regulations and protocols regarding the medical marijuana program. After a thorough hearing on the matter, including a presentation by the department and public testimony, the committee, without objection, deemed the attached rule "unacceptable" in accordance with R.S. 49:968(D)(3).

The committee found that the rule did not meet the criteria for an emergency rule as established in R.S. 49:953(B)(1)(a). The emergency rule was previously adopted on December

21, 2018, and renewed on April 20, 2019. The committee determined there was ample time available for the department to initiate adoption of the rule during this period of time through the process outlined in R.S. 49:953(A).

Further, the agency statement of its reason for finding it necessary to adopt an emergency rule did not include specific reasons why the failure to adopt the rule on an emergency basis would result in an imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other emergency rule criteria identified in R.S. 49:953(B)(1)(a).

The committee also found that the emergency rule was not submitted in accordance with R.S. 49:953(B)(1)(a). The notice of adoption of the rule was not submitted to the governor, attorney general, speaker of the House of Representatives, the president of the Senate, and the office of the Louisiana Register within the required five-day time frame. Additionally, all persons requesting notification of rule changes were not notified as required by R.S. 49:953(B)(2). The committee heard testimony from staff of the LSU AgCenter that they made a timely request and were not provided notification of the rule change.

Based on the aforementioned reasons, the committee made the determination that the emergency rule was unacceptable. By transmittal of this written report of reasons for the committee's action and pursuant to R.S. 49:968(F), the committee is notifying the governor, the Department of Agriculture and Forestry, and the Louisiana Register of the committee's action.

Clay Schexnayder  
Chairman

1905#055

# Potpourri

## POTPOURRI

### Office of the Governor Board of Certified Public Accountants

#### Public Hearing Notice

In compliance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, the State Board of Certified Public Accountants of Louisiana (SBCPA) hereby gives notice that a public hearing will be held at its offices at 601 Poydras Street, Suite 1770, New Orleans, LA 70130 at 9:00 a.m. on July 15, 2019 for the purpose of receiving comments from any interested person regarding any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend, and to submit oral or written comments at the hearing. Additionally, all interested persons are invited to submit written comments in advance of the hearing to Darla M. Saux, Executive Director, State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130. All written comments must include the name and contact information of the person submitting the comments, and must be received no later than the start of the hearing at 9 a.m. on July 15, 2019 if the person submitting is not in attendance. The SBCPA will consider all oral and written comments received from those in attendance at the hearing, as well as those written comments submitted in advance which are timely received. Oral comments must be submitted to the SBCPA in writing as outlined above in order to be submitted to the legislative oversight committees.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Darla M. Saux in writing at the State Board of Certified Public Accountants of Louisiana, 601 Poydras Street, Suite 1770, New Orleans, LA 70130, or by email at [sitemaster@cpaboard.state.la.us](mailto:sitemaster@cpaboard.state.la.us), or by telephone at (504) 566-1244. Requests for special assistance must be received no later than 4:30 p.m. on July 8, 2019. Any questions should be directed to Darla M. Saux at (504) 566-1244.

Darla M. Saux, CPA, CGMA  
Executive Director

1905#016

## POTPOURRI

### Department of Health and Hospitals Board of Nursing

#### Public Hearing Notice

Under the authority of Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the

Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Nursing (LSBN) gives notice that a public hearing will be held September 12, 2019 at 9:00am. The purpose of this hearing is to allow any interested persons the opportunity to comment on any rule of the agency. All interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing regarding LSBN rules. In order for oral comments to be submitted to the legislative oversight committees, the comments must be submitted to LSBN in writing. All written public comments must be dated, include the original signature of the person submitting the comments and must be received no later than September 19, 2019. Written comments may be submitted via mail or hand delivery to Karen C. Lyon, CEO/Executive Director, 17373 Perkins Road, Baton Rouge, LA 70810.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Marcia Carter, within ten working days prior to the scheduled hearing at 225-755-7573. The public hearing will be held at the Louisiana State Board of Nursing 17373 Perkins Road, Baton Rouge, LA 70810.

Karen C. Lyon  
Executive Director

1905#003

## POTPOURRI

### Department of Health Board of Pharmacy

#### Public Hearing Notice

In compliance with the Administrative Procedure Act, more specifically R.S. 49:953(C)(2)(a) as adopted by Act 454 of the 2018 Regular Legislative Session, the Louisiana Board of Pharmacy hereby gives notice of a public hearing to receive comments and testimony concerning the entirety of its rules [LAC 46:LIII.Chapters 1 through 33] as to whether any of them may be contrary to law, outdated, unnecessary, overly complex, or burdensome.

A public hearing on these rules is scheduled for 9 a.m. on Wednesday, June 26, 2019 at the board office, which is located at 3388 Brentwood Drive in Baton Rouge, Louisiana 70809-1700. To request reasonable accommodations for persons with disabilities, please call the board office at 225-925-6496. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative, by personal delivery to Malcolm J. Broussard, Executive Director, at the board office. While the board will consider and respond to verbal testimony, only written

comments will be included in the board's report to the Joint Legislative Oversight Committee on Health and Welfare.

Malcolm J. Broussard  
Executive Director

1905#047

## POTPOURRI

### Department of Health Bureau of Health Services Financing

#### 2019 Third Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Number 11).

House Concurrent Resolution 6 of the 2018 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 6. For the quarter beginning January 1, 2019 through March 31, 2019, the quarterly assessment amount to all hospitals will be \$15,476,301. This amounts to 0.1307146 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Rebekah E. Gee MD, MPH  
Secretary

1905#041

## POTPOURRI

### Department of Health Bureau of Health Services Financing

#### 2019 Fourth Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Number 11).

House Concurrent Resolution 6 of the 2018 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 6. For the quarter beginning April 1, 2019 through June 30, 2019, the quarterly assessment amount to all hospitals will be \$18,605,411. This amounts to 0.1571434 percent of total

inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Rebekah E. Gee MD, MPH  
Secretary

1905#042

## POTPOURRI

### Department of Health Licensed Professional Counselors Board of Examiners

#### Public Hearing—Substantive Change to Notice of Intent Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors (LAC 46:LX.503)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors published a Notice of Intent in the November 20, 2018 edition of the *Louisiana Register* to amend several sections of Chapter 5. After further review, the original proposal is resubmitted, as revised, for publication in the Potpourri sections of the *Louisiana Register*.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LX. Licensed Professional Counselors Board of Examiners

##### Subpart 1. Licensed Professional Counselors

##### Chapter 5. License and Practice of Counseling

##### §503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. For purposes of this Part, the following definitions will apply.

*Active Supervision*—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact. Active Supervision is based on direct client contact hours. Supervision hours shall be adjusted if the provisional licensed professional counselor has less than or more than 20 hours of direct contact. The supervisor and supervisee must meet at least one hour within a three-month period.

*Administrative Supervisor*—person responsible for the overall administrative functions of their agency/organization. The Administrative Supervisor is responsible for the control, oversight and responsibility of PLPC in the setting in which the PLPC is employed, contracted or volunteering.

*Applicant*—an individual who has submitted an application to the board for the initial review, renewal, reinstatement of a license or certification.

\* \* \*

*Bureau*—the Louisiana State Police Bureau of Criminal Identification and Information.

*Clinical Supervision*—a distinct professional practice employing a collaborative relationship between a supervisor

and a supervisee. At a minimum, this relationship has facilitative, evaluative, and supervisory components. The goal of Clinical Supervision is to enhance the professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public, and serve as a gatekeeper for entry into the mental health counseling profession. All licensees who serve in a supervisory capacity are governed by the current ACA code of ethics for supervision. All licensees that supervise another person are governed by the code of conduct and regulatory standards regarding supervisor and supervision set forth by the Licensed Professional Counselors Board of Examiners. A supervisor may not be a relative of the PLPC. Relative of the PLPC is defined as spouse, parent, child, sibling of the whole-or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship. Caution must be exercised in dual relationships when serving as both the Administrative Supervisor and the LPC Supervisor.

*Contract Employee/Private Contractor*—an employee who works under contract for an employer. Hired for a specific job at a specific rate of pay; is not considered a permanent employee. A PLPC may be a contracted employee.

*Criminal History Record Information*—information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising from, including sentencing, criminal correctional supervision and release. It shall not include intelligence information gathered for investigatory purposed or any identification information that does not indicate involvement of the individual in the criminal justice system.

\* \* \*

*Licensure*—any license, certification, or registration for the practice of mental health counseling approved by the board.

*LPC Supervisor*—provides clinical supervision to the PLPC, which must be approved by the board. The LPC Supervisor has the responsibility of assisting PLPCs in increasing their competences as a mental health professional. The LPC Supervisor has no control, oversight, or responsibility for the services of a PLPC whom they are supervising within the agency/organization they are employed, contracted or volunteering, unless the LPC supervisor also serves as the administrative supervisor of the PLPC. To be designated as a LPC Supervisor, one must be approved by the board and fulfill the requirements outlined in Chapter 8.

*Practice of Mental Health Counseling/Psychotherapy*—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but is not limited to the following.

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group through psychotherapy by rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders. This professional relationship empowers diverse individuals, families, and groups to accomplish mental health, wellness, education, and career goals.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations. Section 505 defines ongoing consultation and collaboration for assessment, diagnosis, and treatment of serious mental illnesses.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. Qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. Appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors and Provisional Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in this Chapter. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test

and measurements and individual differences and must renew this privileging designation every two years (as defined in Chapter 7). Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university (as defined in Chapter 7) and must conform to one of the criteria below:

i. a CACREP accredited—program or its equivalent as determined by the board.

ii. a counseling program incorporating the word “counseling” or “counselor” in its title;

iii. a program incorporating a counseling-related term in its title (e.g., marriage and family therapy); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. The requisite graduate degree may not consist of a degree in any disciplines otherwise licensed by the state of Louisiana including, but not limited to, psychology, clinical psychology, or social work, with the exception of counseling psychology and vocational rehabilitation counseling programs.

*Provisional Licensed Professional Counselor*—any person by title or description of services incorporating the words “provisional licensed professional counselor” and who, under board-approved supervision (i.e. may not practice independently), renders professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice mental health counseling.

\* \* \*

*Temporary Registered LPC—*

a. any person who:

i. holds a full and unrestricted license or certificate in mental health counseling/psychotherapy in another state or U.S. territory;

ii. are temporarily employed in Louisiana to render mental health counseling services for not more than 30 consecutive days a year or during a declared state of emergency

b. The board must pre-approve any exception to this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Jamie S. Doming  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Public Hearing—Substantive Change to  
Notice of Intent**

**Definitions for Licensed Professional Counselors and  
Provisional Licensed Professional Counselors**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rule changes clarify, revise, and remove existing definitions and include new definitions regarding present practices of the LA Licensed Professional Counselors Board (LPC Board) pertaining to Licensed Professional Counselors and Provisional Licensed Professional Counselors. Specifically, the proposed rule changes add, remove, and revise definitions regarding supervision of provisional LPCs, application and licensure of LPCs, and criminal background checks of persons licensed by the LPC Board.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not affect revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule changes benefit practitioners licensed by the LPC Board by clarifying, revising, and removing existing definitions, as well as including new definitions, regarding present practices of the board. Specifically, the proposed rule changes add, remove, and revise definitions regarding supervision of provisional LPCs, application and licensure of LPCs, and criminal background checks of persons licensed by the LPC Board.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule changes are not anticipated to affect competition or employment.

Jamie S. Doming  
Executive Director  
1905#048

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**POTPOURRI**

**Department of Insurance  
Office of the Commissioner**

**Public Hearing—Substantive Change to Notice of Intent  
Regulation 100—Coverage of Prescription Drugs through a  
Drug Formulary  
(LAC 37:XIII.Chapter 101)**

The Department of Insurance published a Notice of Intent to amend its rule, Regulation 100, in the January 20, 2019, Volume 45, No. 01 edition of the *Louisiana Register*. The Department of Insurance proposes to amend §14111 of the current Notice of Intent of Regulation 100 by reducing the time period from 120 days to 75 days that a health insurance issuer has to notify the Department of Insurance of a modification affecting drug coverage. Since this is a



substantive change, the Department of Insurance is giving the public an opportunity for a hearing as published in this Potpourri.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 41. Regulation 100—Coverage of  
Prescription Drugs through a Drug  
Formulary**

**§14111. Requirements for the Modification Affecting  
Drug Coverage**

A. - A5. ...

B. A health insurance issuer shall notify the commissioner in writing of a modification affecting drug coverage 75 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in § 14111.A herein. A health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

**Public Hearing**

A public hearing on the proposed substantive change will be held by the Louisiana Department of Insurance on June 20, 2019, at 9:30 a.m. in the Poydras Hearing Room, Poydras Building, 1702 North Third Street, Baton Rouge, LA. Interested persons who wish to make comments may do so at the public hearing or by writing to Claire Lemoine, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted no later than June 20, 2019 by close of business, 4:30 p.m.

James J. Donelon  
Commissioner

1905#020

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation  
Environmental Division**

**Public Hearing Notice**

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Thursday, July 11, 2019, at the Red River Parish Courthouse, third floor assembly room, located at 615 East Carroll Street, Coushatta, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Pinnergy, LTD., 111 Congress Ave., Suite 2020, Austin, Texas 78701. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration & production waste (E&P Waste) fluids located on Hwy 514 in Section 22, Township 14 North, Range 9 West in Red River Parish.

The application is available for inspection by contacting Mr. Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana. Copies of the application will be available for review at the Red River Parish Police Jury located at 615 East Carroll Street, Coushatta, Louisiana or the Red River Parish Public Library located at 410 East Carroll Street, Coushatta, Louisiana, no later than 30 days prior to the hearing date. Verbal information may be received by calling Mr. Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Thursday, July 18, 2019, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation  
Environmental Division  
P.O. Box 94275  
Baton Rouge, Louisiana 70804  
Re: Docket No. ENV 2019-03  
Commercial Facility Well Application  
Red River Parish

Richard P. Ieyoub  
Commissioner

1905#012

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

**Orphaned Oilfield Sites**

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Annona Productions, Inc.	Monroe	M	Annona	001	82920
Annona Productions, Inc.	Monroe	M	Williamson	001	147018
Annona Productions, Inc.	Monroe	M	O D Love	001	147019
Annona Productions, Inc.	Monroe	M	Antley	001	147127
Annona Productions, Inc.	Monroe	M	Antley	002	147128

Operator	Field	District	Well Name	Well Number	Serial Number
Annona Productions, Inc.	Monroe	M	O D Love	002	147129
Annona Productions, Inc.	Monroe	M	P M Turner Estate	001	147130
Annona Productions, Inc.	Monroe	M	H W Allen Est	001	149440
Annona Productions, Inc.	Monroe	M	H W Allen Est	002	149441
Annona Productions, Inc.	Monroe	M	H W Allen Est	003	149442
Annona Productions, Inc.	Monroe	M	H Turner et al	001	150727
Annona Productions, Inc.	Monroe	M	Adcock et al	004	164513
Annona Productions, Inc.	Monroe	M	O D Love	003	186667
Annona Productions, Inc.	Monroe	M	P M Turner Estate	002	186736
Annona Productions, Inc.	Monroe	M	Williamson	002	186737
B M Oil, Inc.	Welsh	L	Walshe	008	215007
Forest Oil Corporation	Tigre Lagoon	L	Davie Meaux et al swd	001	219888(30)
Sammy D. Thrash, Llc	Bellevue	S	Knighton et al	001	120729
Seabass Oil and Gas, Llc	Theall	L	Th Siph Dav 3 Su;O Hebert	001	81882
Seabass Oil and Gas, Llc	Theall	L	Oneil Hebert	001-D	83793
Seabass Oil and Gas, Llc	Kaplan	L	Ka 11100 ra Su; Irving Irrig	003	153755
Seabass Oil and Gas, Llc	Kaplan	L	Irving Irrigation Company	003D	155250
Seabass Oil and Gas, Llc	Kaplan	L	Irving Irrigation Company	005	159250

Operator	Field	District	Well Name	Well Number	Serial Number
Seabass Oil and Gas, Llc	Kaplan	L	Vua;Irving Irrigation Company	005-D	161238
Seabass Oil and Gas, Llc	Theall	L	TH Siph Dav 3 Su;W V Durke	002	176464
Seabass Oil and Gas, Llc	Theall	L	Th Siph Dav 3 Su;Oneil Hebert	002	210530
Seabass Oil and Gas, Llc	Lake Arthur	L	R D Miller et al	001	213235
Seabass Oil and Gas, Llc	Theall	L	W V Durke	002-D	216034
Seabass Oil and Gas, Llc	Fordoche	L	CF ra suf; Grace Merrell et al	001	241234
Seabass Oil and Gas, Llc	Kaplan	L	A H Romaine swd	002	973748
Stanolind Oil & Gas Co.	Greenwood-Waskom	S	J D Abney	001	38506(30)
The Gerhig Co. Of Ark.	Caddo Pine Island	S	E A Sartor	001	34855
Tommy Garrot Oper Service Inc	Marksville	M	Rey ra sub; Ellis Reynaud	001	204030
Tommy Garrot Oper Service Inc	Marksville	M	Ellis Reynaud swd	003	205675
Tommy Garrot Oper Service Inc	Marksville	M	Ellis Reynaud	002	237786

Richard P. Ieyoub  
Commissioner

1905#017

## POTPOURRI

### Department of Public Safety and Corrections Oil Spill Coordinator's Office

Draft Damage Assessment and Restoration  
Plan/Environmental Assessment for the Breton Island 2005  
Oil Spill and Restoration Project

**ACTION:** Notice of Availability of a Draft Damage Assessment and Restoration Plan/Environmental Assessment (DARP/EA) with a 30-day public review and comment period—LOSCO NRDA case file LA2005\_0612\_1105 (Breton Island 2005).

**AGENCIES:** Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS), collectively referred to herein as the "Trustees".

**AUTHORITIES:** The Oil Pollution Act of 1990 (OPA), 33 USC 2701 *et seq.*, and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 *et seq.*, are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at La. Admin. Code tit. 43, pt. XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the June 12, 2005 crude oil discharge into Breton Sound, Plaquemines Parish, Louisiana (Incident). Hess Corporation (HESS) was identified as the responsible party for the incident.

**SUMMARY:** Pursuant to 15 C.F.R. §§ 990.23, 990.55 and La. Admin. Code 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan/Environmental Assessment for the Breton Island 2005 Oil Spill and Restoration Project" is available for public review and comment. The Draft DARP/EA identifies the natural resources and services that were determined to be injured by the incident, describes the assessment procedures used to quantify injury, outlines the scaling techniques and restoration alternative selection process, and presents the Trustees' proposed plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources resulting from the Incident. The Draft DARP/EA evaluates restoration alternatives that the Trustees considered and identifies the Trustees' preferred restoration alternative, which is to create Brown Pelican habitat on North Breton Island, Louisiana. After finalization of the Draft DARP/EA, the Trustees will prepare a Final Damage Assessment and Restoration Plan/Environmental Assessment (Final DARP/EA) and make it available to the public.

The Draft DARP/EA is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review this document and submit comments to the mailing or email address listed below. The Trustees will consider comments received during the public comment period before finalizing

the document. Public review of the Draft DARP/EA is consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the OSPRA regulations, La. Admin. Code tit. 43, pt. XXIX, *et seq.*

Interested members of the public are invited to view the Draft DARP/EA via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Breton Island 2005 Draft Damage Assessment and Restoration Plan/Environmental Assessment Available) or by requesting a copy of the document from Gina Muhs Saizan at the following address:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
Department of Public Safety and Corrections  
P.O. Box 66614  
Baton Rouge, LA 70896  
(225) 925-6606  
[gina.saizan@la.gov](mailto:gina.saizan@la.gov)

**COMMENT SUBMITTALS:** Comments must be submitted in writing or digitally to Gina Muhs Saizan to the above address on or before the end of the 30-day comment period.

**FOR FURTHER INFORMATION:** Contact Gina Muhs Saizan at (225) 925-6606 or by email at [gina.saizan@la.gov](mailto:gina.saizan@la.gov).

**SUPPLEMENTARY INFORMATION:** On November 20, 2006, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 32, No. 11, pp. 2192-2193) to notify the public that they intended to conduct restoration planning for the Incident and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the Incident. In November 2018, Hess agreed to settle their NRDA liability for a cash amount, and the Trustees published a Notice of Availability of a proposed Consent Decree for Natural Resource Damages in the *Louisiana Register* on November 20, 2018 (Vol. 44, No. 11, pp. 2094-2095). The Trustees did not receive comments during the 30-day public comment period, and on March 15, 2019, the United States District Court for the Eastern District of Louisiana signed and entered the Consent Decree. A signed copy of the Consent Decree is available via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Breton Island Consent Decree).

Marty J. Chabert  
Oil Spill Coordinator

1905#055

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